

1 292.440, or who willfully violates KRS 292.440 knowing the statement made to be
 2 false or misleading in any material respect, shall be guilty of a Class D felony.

3 (2) Any person who willfully violates any rule or order of the commissioner~~executive~~
 4 ~~director~~], authorized under this chapter, shall be guilty of a Class A misdemeanor;
 5 but no person may be imprisoned for violation of any rule or order of which that
 6 person did not have actual knowledge.

7 (3) The commissioner~~executive director~~] may refer such evidence as may be available
 8 concerning violations of this chapter or of any rule or order hereunder to the
 9 Attorney General or the proper prosecuting authority, who may in his or her
 10 discretion, with or without such a reference, institute the appropriate criminal
 11 proceedings under this chapter.

12 (4) Nothing in this chapter limits the power of the state to punish any person for any
 13 conduct which constitutes a crime by statute or at common law.

14 ➔Section 880. KRS 299.010 is amended to read as follows:

15 (1) The provisions of this chapter do not apply to secret or fraternal societies, lodges, or
 16 councils that are under the supervision of a grand or supreme body and secure
 17 members through the lodge system exclusively, and pay no commissions and
 18 employ no agents except in the organization and supervision of the work of local
 19 subordinate lodges or councils, nor do they apply to companies, societies or
 20 associations organized under the authority and patronage of any church or religious
 21 denomination for the exclusive purpose of insuring the property of churches or
 22 religious denominations and the personal property of the pastors and ministers
 23 thereof against loss or damage by fire, lightning or storm.

24 (2) As used in this chapter, unless the context requires otherwise:

25 (a) "Commissioner~~Executive director~~]" means the commissioner~~executive~~
 26 ~~director~~] of the Department~~Office~~] of Insurance;

27 (b) "Policy" means any policy, certificate of membership, or contract of

1 insurance;

2 (3) "Company," as used in KRS 299.020 to 299.300, means any corporation,
3 association or society transacting in this state a life or casualty insurance business,
4 or both, upon the cooperative or assessment plan, as defined in KRS 299.020;

5 (4) "Company," as used in KRS 299.310 to 299.470, means any corporation organized
6 under KRS 299.310 and 299.320 for the purpose of transacting, and any company
7 heretofore organized under any similar law of this state or under the general
8 corporation laws of this state that is transacting, the business of insurance against
9 physical loss or damage of property by such hazard or hazards as it may provide in
10 its policies, upon the cooperative or assessment plan.

11 ➔Section 881. KRS 299.019 is amended to read as follows:

12 (1) Every company licensed under this chapter shall provide to the
13 commissioner~~executive director~~ a list of its officers and directors, their names,
14 addresses, principal business activities, and occupations or employment.

15 (2) Every company licensed under this chapter shall file with the
16 commissioner~~executive director~~ a copy of any management contract, third-party
17 administrator contract, agency contract, or any other agreement, contract, or
18 document whereby rights or duties of the company are assigned or delegated to
19 another entity. No agreement shall be effective until approved by the
20 commissioner~~executive director~~. An agreement may be disapproved if, after a
21 hearing under KRS Chapter 13B, the commissioner~~executive director~~ finds that
22 the agreement does not comply with the following conditions:

23 (a) The agreement shall be the result of an arms length transaction between the
24 company and any other party;

25 (b) The terms of the agreement shall be fair and reasonable to the parties, and the
26 charges or fees for all services provided shall be reasonable;

27 (c) The books, accounts, and records of each party to the agreement shall be

maintained to clearly and accurately disclose the precise nature and details of the transaction; and

(d) The agreement shall be made for the benefit of the policyholders of the company.

→Section 882. KRS 299.030 is amended to read as follows:

(1) Persons desiring to form an organization for the purpose of transacting the business of life or casualty insurance, or both, upon the assessment or cooperative plan, may associate together and effect an organization as prescribed in this section.

(2) Any number of persons not less than thirteen (13) may associate to establish such an insurance company.

(3) In addition to the general requirements for all corporations, the articles of incorporation shall specify the class of insurance the company proposes to transact; and on what business plan or principle; the number and amount of agreements for insurance, if any; and such other facts as may be necessary to explain and make manifest the object and purposes of the corporation. The words "insurance company" shall be a part of the title of every such corporation, and also the word "mutual."

(4) In addition to complying with the provisions of KRS Chapter 271B, the incorporators shall file a certified copy of the articles of incorporation in the office of the commissioner~~executive director~~.

→Section 883. KRS 299.040 is amended to read as follows:

Upon filing in the office of the commissioner~~executive director~~ the required articles of incorporation, together with a sworn statement by three (3) of the incorporators that at least two hundred (200) persons, eligible under the proposed laws of the company to membership therein, have in good faith made application in writing for membership, the articles shall be referred to and examined by the Attorney General. If the articles are found by him to be conformable to and not inconsistent with the laws of the state, he shall

1 certify accordingly and return them, with his certificate of conformity, to the
 2 commissioner~~[executive director]~~. The commissioner~~[executive director]~~ shall cause the
 3 articles, with the certificate of the Attorney General, to be recorded in a book to be kept
 4 for the purpose, and shall deliver to the company a certified copy of the papers so filed
 5 and recorded in his or her office, and of the certificate of the Attorney General, together
 6 with the license of the commissioner~~[executive director]~~ to the company to engage in the
 7 business proposed in the articles. Upon the certified copy and license being filed in the
 8 office of the clerk of the county where the company is to be located, the incorporators and
 9 those that may thereafter become associated with them, or their successors, shall
 10 constitute a body-politic and corporate, but may not commence business until at least two
 11 hundred (200) persons have subscribed, in writing, to be insured therein in the aggregate
 12 amount of at least \$200,000, and the company has established a guaranty fund of
 13 \$100,000 for the protection of its policyholders or members, and the
 14 commissioner~~[executive director]~~ has certified that it has complied with the provisions of
 15 law and is authorized to transact business.

16 ➔Section 884. KRS 299.100 is amended to read as follows:

- 17 (1) Every company shall hold, within the county in which its principal office is located
 18 in this state, a stated annual meeting of its members or policyholders, or
 19 representatives of local boards or subordinate bodies, in the manner and subject to
 20 the regulations, restrictions and provisions that its constitution and bylaws provide.
- 21 (2) Every company authorized to do business in this state may, at any stated annual
 22 meeting of its members or policyholders, adopt or amend its bylaws, rules and
 23 regulations. If the board of directors determines that an emergency has arisen
 24 requiring the adoption or amendment of any bylaw, rule or regulation before the
 25 next ensuing stated annual meeting, the board shall mail a copy of the bylaw, rule or
 26 regulation to the members and directors of the company, together with a notice of
 27 the time and place when the same will be considered, which notice shall be the

1 same as required for a stated meeting. The bylaws, rules, regulations and
 2 amendments thereto adopted from time to time at the stated annual meeting, or at
 3 any meeting made necessary by an emergency, shall be binding on all members and
 4 policyholders of the company, whether or not personally present at the meeting
 5 when the same were adopted.

6 (3) The books and papers of each company shall at all times be open for examination
 7 by the commissioner~~executive director~~, and shall be open for examination by a
 8 committee of members or policyholders duly selected, authorized and empowered
 9 for that purpose by a writing signed by a majority of the members or policyholders
 10 of the company, which written authority shall be presented to and filed with the
 11 company before any examination is made by the committee.

12 ➔Section 885. KRS 299.120 is amended to read as follows:

13 Every company shall, by March 1 of each year, make and file with the
 14 commissioner~~executive director~~ a report of its affairs and operations during the year
 15 ending on December 31 immediately preceding. The report shall be upon blank forms
 16 provided by the commissioner~~executive director~~, and shall be verified under oath by the
 17 duly authorized officers of the company, and the commissioner~~executive director~~ shall
 18 publish it, or its substance, in his annual report. This annual report shall contain the
 19 following information: The number of policies issued or members admitted during the
 20 year; the amount of indemnity effected thereby; the number of death losses; the number
 21 of death losses paid; the amount received from each assessment in each class for the year;
 22 the total amount paid policyholders, beneficiaries, legal representatives or heirs; the
 23 number of death claims for which assessments have been made; the number of death
 24 claims compromised or resisted, and a brief statement of the reason; whether the
 25 company charges annual dues, and if so, how much on each one thousand dollars
 26 (\$1,000) annually, or per capita, as the case may be; the total amount received and the
 27 disposition thereof; whether the company uses money received for payment of death

1 claims to pay expenses, in whole or in part, and if so, the amount so used; the total
 2 amount of salaries paid to officers; whether the company guarantees a fixed amount to be
 3 paid regardless of the amount realized from assessments, dues, admission fees and
 4 donations, and if so, the amount guaranteed and the security for such guarantee; whether
 5 the company has a reserve fund, and if so, how the reserve fund is created and for what
 6 purpose, the amount thereof and how invested; whether the company has more than one
 7 (1) class, and if so, how many, the amount of indemnity in each class, and the number of
 8 members in each class; if organized under the laws of this state, under what law and at
 9 what time; the number of policies or memberships lapsed during the year; the number of
 10 policies or memberships in force at the beginning and end of the year in each class; the
 11 aggregate maximum, minimum and average age of membership in each class; the assets
 12 applicable to life or casualty insurance, other than reserve fund, and how invested; and the
 13 amount received from all sources for life or casualty insurance and the disposition
 14 thereof.

15 →Section 886. KRS 299.190 is amended to read as follows:

16 When the commissioner~~[executive-director]~~ has given the notice required by KRS
 17 299.180, he or she shall proceed without delay to investigate the condition of the
 18 company, and shall have full power, in person or by deputy, to examine its books, papers
 19 and accounts, and to examine, under oath, its officers, agents, clerks and policyholders,
 20 and other persons having knowledge of its business. If it appears to the
 21 commissioner~~[executive-director]~~ that the liabilities of the company exceed its resources,
 22 and that it cannot within a reasonable time, not more than three (3) months from the date
 23 of the original default, pay its accrued indebtedness in full, the commissioner~~[he]~~ shall
 24 report the facts to the Attorney General, who shall, upon the commissioner's~~[executive~~
 25 ~~director's]~~ report, apply to the Judge of the Franklin Circuit Court, or to the Judge of the
 26 Circuit Court of the county in which the company is located, for an order closing the
 27 business of the company and appointing a receiver for the distribution of its assets among

1 creditors. No such final order shall be made until the company has had ten (10) days'
 2 notice of the application and an opportunity to be heard. Upon hearing the matter, the
 3 court may make any order that the interests of the company and the public require.

4 ➔ Section 887. KRS 299.210 is amended to read as follows:

- 5 (1) An assessment or cooperative life insurance company, including such companies as
 6 are organized under the provisions of KRS Chapter 303 and KRS 304.32-010 to
 7 304.32-270, may be wholly reinsured in, and its assets to the extent required to
 8 establish adequate reserves transferred to, and its liabilities assumed by a mutual or
 9 stock insurer pursuant to an agreement of reinsurance approved by the
 10 commissioner~~executive director~~ of insurance after such hearing as the
 11 commissioner~~executive director~~ may require, and approved by two-thirds (2/3) of
 12 the members of such company who are present at a meeting of such members duly
 13 called for such purpose, and vote thereon.
- 14 (2) Any such reinsurance agreement shall determine the amount of surplus, if any, of
 15 such cooperative or assessment company and shall make adequate provision for
 16 paying to the members of such company their respective shares of such surplus
 17 determined in such manner as may be approved by the commissioner~~executive~~
 18 ~~director~~.
- 19 (3) If the transfer or reinsurance is approved, every policyholder of the company who
 20 files with its secretary, within ten (10) days after the meeting, written notice of his
 21 preference to be transferred to some other company than that named in the contract,
 22 shall be accorded all the rights and privileges, if any, in aid of the transfer, that
 23 would have been accorded under the terms of the contract had he been transferred to
 24 the company named therein.
- 25 (4) No domestic company shall transfer its risks or any part thereof to, or reinsure its
 26 risks or any part thereof in, any insurance company of another state or country that
 27 is not at the time of the transfer or reinsurance authorized to do insurance business

1 in this state.

2 ➔ Section 888. KRS 299.215 is amended to read as follows:

3 (1) The commissioner~~[executive director]~~ shall collect and pay into the State Treasury
4 the following fees relative to assessment or cooperative life or casualty insurance
5 companies:

6 (a) For filing a copy of articles of incorporation of the company, \$10; and

7 (b) For filing annual statement of the company, \$10.

8 (2) No other charges than those provided in this section shall be made against
9 assessment or cooperative life or casualty insurance companies by the
10 Department~~[Office]~~ of Insurance unless agreed to by the respective companies.

11 ➔ Section 889. KRS 299.250 is amended to read as follows:

12 The reorganized company may not do any business as a stock company until the amount
13 of stock determined as provided in KRS 299.240, and as authorized by law, has been
14 subscribed and paid for, at not less than par, and the provisions of the law concerning
15 stock companies have been complied with, and the proceeds of the capital stock to the
16 amount of at least \$100,000 have been invested in securities such as those in which
17 insurance companies are permitted by law to make investments, and such securities to the
18 amount of at least \$100,000 have been deposited with the custodian of insurance
19 securities to guarantee the payment of policies issued by the company, and until the
20 commissioner~~[executive director]~~ has, upon request, valued the assets of the company
21 and its outstanding policies and has given his certificate that the admitted assets of the
22 company, including its capital stock, are sufficient to provide reserve upon all outstanding
23 assessment policies, valued as provided in KRS 299.280, over and above all other bona
24 fide debts of the company and claims against it, and that the company has complied with
25 all of the laws regarding life insurance companies upon the stock or mutual plan, as the
26 case may be.

27 ➔ Section 890. KRS 299.270 is amended to read as follows:

1 Upon the receipt of the certificate from the commissioner~~[executive director]~~ authorizing
 2 the reorganized company to do business upon the stock or mutual plan, the stockholders
 3 may elect from among themselves directors, in accordance with the articles of
 4 incorporation and bylaws of the company and the laws of this state, to hold office until
 5 the ensuing annual meeting and until their successors have been duly elected and
 6 qualified. The directors so elected shall have all the rights and powers proper to be
 7 exercised by the directors of life insurance companies upon the mutual or stock plan.

8 ➔Section 891. KRS 299.300 is amended to read as follows:

9 (1) The commissioner~~[executive director]~~, upon request and the payment to him of the
 10 usual fees, shall ascertain and certify the proportionate interest, in the assets of the
 11 cooperative or assessment company before its reorganization, of each of the
 12 policyholders of the cooperative or assessment company who refuse, within six (6)
 13 months after notice, to assent to the change into a stock or mutual company. The
 14 interest of a member so dissenting shall not be valued at more than his
 15 proportionate part of the accumulated emergency fund, to be determined by the
 16 commissioner~~[executive director]~~ as of the date of the reorganization.

17 (2) The amount of the interest of each such dissenting policyholder shall be paid over to
 18 the commissioner~~[him]~~ on demand within thirty (30) days after ascertainment, and
 19 upon the payment or tender of the amount of interest so ascertained and certified the
 20 membership of the dissenting policyholder shall cease.

21 (3) Out of the remainder of the assets in excess of the sum required for the
 22 compensation of dissenting policyholders, there shall be deposited with the
 23 custodian of insurance securities, under the laws providing for the deposit of legal
 24 reserve, a sum equal to such reserve, as computed by the commissioner~~[executive director]~~,
 25 in addition to the deposit of \$100,000 provided for by KRS 299.250.

26 ➔Section 892. KRS 299.310 is amended to read as follows:

27 (1) Twenty-five (25) or more persons residing in any one or more adjoining

1 municipalities, or in any county, or in not more than ten (10) adjoining counties,
 2 who collectively own property of the value of fifty thousand dollars (\$50,000) or
 3 more, may organize a company for the purpose of cooperative or assessment
 4 insurance against:

- 5 (a) Loss of or damage to real or personal property of every kind and interest
 6 therein, from any or all hazards or causes, and against loss consequential upon
 7 such loss or damage; and
- 8 (b) Legal liability for the death, injury, or disability of any human being, or for
 9 damage to property; and medical, hospital, surgical, and funeral expenses of
 10 persons injured, irrespective of legal liability of the insured, when issued as an
 11 incidental coverage with or supplemental to liability insurance.

12 Such persons shall make and acknowledge a certificate setting forth their intention
 13 to form such a company, the counties or municipalities in which it intends to do
 14 business, its corporate name, and the place where its principal office is to be
 15 located. Every person insured in such a company who signs an application for
 16 insurance as required by the certificate of incorporation or by the bylaws of the
 17 company shall thereby become a member. Provided, however, that no such
 18 company shall insure against any of the hazards set forth in paragraph (b) of this
 19 subsection unless it has a net surplus of two million dollars (\$2,000,000) or more or
 20 is fully reinsured as to all such hazards by a contract or contracts filed with and
 21 approved by the commissioner~~executive director~~.

- 22 (2) No money shall be collected by any person on behalf of the company until two (2)
 23 of the members or organizers have given joint bond to the commissioner~~executive~~
 24 ~~director~~ in the sum of ten thousand dollars (\$10,000), conditioned that all money so
 25 collected will be used as directed by law, and that the affairs of the company will be
 26 conducted according to law. The bond shall be held by the commissioner~~executive~~
 27 ~~director~~ for the benefit of the members of the company until the company has

1 become legally incorporated and its affairs have been examined by an expert
 2 accountant, appointed by the commissioner~~[executive director]~~, and found to be in
 3 due and regular form, and immediately thereafter the bond shall be canceled.

4 (3) No company shall be formed under KRS 299.310 to 299.470 for the purpose of
 5 transacting any business of insurance other than as prescribed in those sections, and
 6 no company shall insure against any loss other than the ones permitted by those
 7 sections. Any company operating under the provisions of KRS 299.310 to 299.470
 8 as of June 1, 1960, shall be authorized to write all types of insurance allowed under
 9 subsection (1) of this section without amendment of its charter or articles of
 10 incorporation.

11 (4) Insurers organized under the provisions of this section are subject to the provisions
 12 of subtitle 36 of KRS Chapter 304 to the extent applicable and not in conflict with
 13 the expressed provisions of this chapter.

14 ➔Section 893. KRS 299.320 is amended to read as follows:

15 Upon filing the required articles in the office of the commissioner~~[executive director]~~,
 16 together with a sworn statement by three (3) of the incorporators that bona fide
 17 agreements have been entered into for the insurance of property of an amount not less
 18 than \$100,000 within the territory in which it proposes to do business, the articles shall be
 19 referred to and examined by the Attorney General. If the articles are found by the
 20 Attorney General~~[him]~~ to be conformable to, and not inconsistent with, the laws of this
 21 state, the Attorney General~~[he]~~ shall certify accordingly, and return them, with a~~[his]~~
 22 certificate of conformity, to the commissioner~~[executive director]~~. The
 23 commissioner~~[executive director]~~ shall cause the articles, with the certificate of the
 24 Attorney General, to be recorded in a book kept for that purpose, and shall deliver to the
 25 company a certified copy of the papers as filed and recorded in his office, and of the
 26 certificate of the Attorney General, together with the license of the
 27 commissioner~~[executive director]~~ to the company to engage in the business proposed in

1 the articles. Upon the certified copy and license being filed in the office of the clerk of the
 2 county in which the principal office of the company is to be located, the incorporators and
 3 those that may thereafter become associated with them, and their successors, shall
 4 constitute a body politic and corporate, and be lawfully entitled to begin business.

5 ➔Section 894. KRS 299.330 is amended to read as follows:

6 (1) No company shall insure any property located outside the limits of the territory
 7 comprised in its certificate of incorporation, except that when a member lives on or
 8 near the boundary line and has property both within and without the prescribed
 9 boundary, his property without the boundary may be insured.

10 (2) Any company, by a majority vote of its membership, or by a majority vote of its
 11 board of directors at any meeting where there is a legal quorum of directors in
 12 session, may change the territory in which it is incorporated to do business to as few
 13 or as many counties in this state as it may see fit to include in its territory. The
 14 change of territory shall be effective upon the members of the board of directors
 15 filing a proper certificate of such action with the commissioner~~executive director~~.

16 (3) The board of directors may, by resolution duly passed at any regular meeting,
 17 remove the office of the company to any municipality in which it is authorized to do
 18 business. The removal shall not be made until after the expiration of five (5) days
 19 from the passage of the resolution and the filing of a copy in the office of the
 20 commissioner~~executive director~~.

21 ➔Section 895. KRS 299.450 is amended to read as follows:

22 The president and secretary of each company shall, on or before March 1 of each year,
 23 make a sworn statement to the commissioner~~executive director~~ showing the condition
 24 of the company as of the preceding December 31. The statement shall contain the
 25 following information: The amount and kind of property insured; the number of policies
 26 issued from the time of organization of the company up to the time of making the
 27 statement; the number insured during the year last past; the amount of insurance accepted

1 and the amount withdrawn, expired and canceled during the year; the whole amount of
 2 insurance in force on December 31; the amount of money received during the year; the
 3 amount of disbursements, specifying the amount paid for fees, salaries and commissions;
 4 and all other matters of interest to the company or members that the
 5 commissioner~~executive director~~ may require.

6 ➔ Section 896. KRS 299.460 is amended to read as follows:

7 The commissioner~~executive director~~ shall examine into the management of any
 8 company whenever he deems it prudent for the protection of policyholders in this state,
 9 but not less frequently than once in every four (4) years. He shall also examine into the
 10 management of a company upon the application of ten (10) of its members, or twenty-five
 11 percent (25%) of its board of directors, or its president or secretary. The company shall
 12 pay all expenses of the examination which shall promptly be deposited in the State
 13 Treasury "Examination Expense Revolving Fund" established in KRS 304.2-300. If the
 14 commissioner~~executive director~~ finds that the company or any director, agent, adjuster,
 15 employee, administrator, or officer has been or is violating the provisions of KRS
 16 299.310 to 299.450, or the bylaws of the company, he shall proceed in like manner as
 17 with other insurers guilty of like violations. The commissioner~~executive director~~ may
 18 issue orders, conduct investigations, hold hearings, issue subpoenas, assess penalties, and
 19 take other reasonable and necessary actions as with other insurers.

20 ➔ Section 897. KRS 299.470 is amended to read as follows:

21 All the provisions of KRS 299.310 to 299.460 shall apply to companies doing business of
 22 the kind and upon the plan described in subsection (4) of KRS 299.010 and organized by
 23 special charter granted by this state, where those provisions do not conflict with some
 24 vested right granted in the special charter. Any such company may become subject to all
 25 the provisions of KRS 299.310 to 299.460 by filing a certified statement with the
 26 commissioner~~executive director~~ that a majority of its directors have voted to so subject
 27 the company.

➔Section 898. KRS 299.480 is amended to read as follows:

Three (3) or more domestic mutual or cooperative and assessment fire insurance companies may organize a reinsurance company to reinsure their risks by certifying to the commissioner~~[executive director]~~ their intention and filing with him certificates properly acknowledged showing the vote of the directors of the companies authorizing them to become members of the reinsurance company. The name of the reinsurance company shall be contained in the certificate to the commissioner~~[executive director]~~ and shall be approved by the commissioner~~[him]~~. Such reinsurance company shall be a distinct corporation.

➔Section 899. KRS 299.490 is amended to read as follows:

(1) Any domestic mutual or assessment and cooperative fire insurance company may, with the consent of the directors of the reinsurance company, become a member thereof by filing with the commissioner~~[executive director]~~ a certificate of its intention and a certificate showing the vote of its directors authorizing it to become a member of the reinsurance company.

(2) Any member company may, by paying its proportion of the liabilities of the reinsurance company then existing, withdraw its membership from a reinsurance company. The member company shall certify to the commissioner~~[executive director]~~ its intention to withdraw its membership, and give written notice to the secretary of the reinsurance company of its intention to withdraw thirty (30) days in advance. Upon withdrawal of any member company the reinsurance company shall at once cancel all policies of insurance held by and through the company withdrawing.

➔Section 900. KRS 299.520 is amended to read as follows:

(1) Complete copies of treaties and contracts for reinsurance, excluding policies for reinsurance, shall be filed with and approved by the commissioner~~[executive director]~~.

1 (2) These copies of treaties of reinsurance shall be open at all times for inspection in
 2 the Department~~{Office}~~ of Insurance, on application of any citizen of this state
 3 asking the name of the reinsuring company, and the Department~~{Office}~~ of
 4 Insurance on application shall furnish the name of the reinsuring company.

5 ➔Section 901. KRS 299.540 is amended to read as follows:

6 (1) The commissioner~~{executive director}~~ shall collect and pay into the State Treasury
 7 the following fees relative to assessment or cooperative fire insurance companies:

8 (a) For filing a copy of articles of incorporation of the company, \$10;

9 (b) For filing annual statement of the company, \$10; and

10 (c) For filing papers and keeping records on change of territory, \$5.

11 (2) No other charges than those provided in this section shall be made against
 12 assessment or cooperative fire insurance companies by the Department~~{Office}~~ of
 13 Insurance unless agreed to by the respective companies.

14 ➔Section 902. KRS 299.550 is amended to read as follows:

15 Any company operating under the provisions of KRS 299.310 et seq. may become a
 16 mutual insurer as defined in Chapter 304 of the Kentucky Revised Statutes upon the
 17 approval of such change by two-thirds (2/3) of the authorized vote of the membership of
 18 the company, such authorized vote to be determined by the provisions of KRS 299.350;
 19 and such vote to be at a regular annual meeting of the membership of the company, notice
 20 of which meeting shall have been given to the membership in writing at least thirty (30)
 21 days in advance, setting forth the fact that a vote upon such conversion shall be taken at
 22 said meeting. In the event of such conversion of a company, the effective date of the
 23 conversion shall be fixed by resolution of the membership, and all policies in force as of
 24 the effective date of conversion shall remain in force unless sooner canceled until the next
 25 regular assessment thereon or until one (1) year after the effective date of conversion,
 26 whichever is earlier. All policies written after the effective date of conversion in all
 27 respects shall be in conformity with the provisions of Chapter 304 of the Kentucky

1 Revised Statutes. The plan of conversion must be submitted to and approved by the
2 commissioner~~[executive director]~~ before it becomes effective.

3 ➔ Section 903. KRS 303.100 is amended to read as follows:

4 A burial association desiring to do business in this state shall file with the
5 commissioner~~[executive director]~~ of the Department~~[Office]~~ of Insurance a power of
6 attorney as is required of insurance companies, designating the commissioner~~[executive~~
7 ~~director]~~ as the proper person upon whom process may be served.

8 ➔ Section 904. KRS 303.122 is amended to read as follows:

9 (1) Any person, firm, corporation, partnership or undertaking concern, duly and
10 regularly licensed to engage in the undertaking business in the Commonwealth of
11 Kentucky who may desire to perform the provisions of any agreement, policy,
12 contract, bond, assurance or guarantee issued by any burial association or
13 association of a similar nature authorized to do business in the Commonwealth of
14 Kentucky shall file with the commissioner~~[executive director]~~ of the
15 Department~~[Office]~~ of Insurance of the Commonwealth of Kentucky a bond in an
16 amount that is reasonable to be fixed by the commissioner~~[executive director]~~ of
17 insurance of the Commonwealth of Kentucky, which bond shall be conditioned
18 upon the faithful performance of the agreement, policy, contract, bond, assurance or
19 guarantee issued by any burial association or association of a similar nature
20 authorized to do business in the Commonwealth of Kentucky to its members as
21 approved by the commissioner~~[executive director]~~ of insurance of the
22 Commonwealth of Kentucky.

23 (2) The commissioner~~[executive director]~~ of insurance shall adopt appropriate forms
24 for the filing of the bond provided for herein and shall, upon request, furnish said
25 forms to any person, firm, corporation, partnership or undertaking concern, duly and
26 regularly licensed to engage in the undertaking business in the Commonwealth of
27 Kentucky, who may desire to qualify under the terms of this section.

1 ➔ Section 905. KRS 303.130 is amended to read as follows:

2 Each burial association shall deposit with the custodian of insurance securities securities
3 to the amount of not less than \$100,000, to be held for the benefit of its policyholders.
4 These securities shall be of the kind in which domestic life insurance companies are
5 allowed by law to invest their capital. Associations shall have, at all times, on approval of
6 the commissioner~~[executive director]~~, the right to exchange any part of the securities for
7 other of like amount or character.

8 ➔ Section 906. KRS 303.140 is amended to read as follows:

9 (1) All burial associations shall, by March 1 of each year, make and file with the
10 commissioner~~[executive director]~~ a report of its affairs and operations during the
11 year ending December 31 immediately preceding. This report shall be upon blank
12 forms furnished by the commissioner~~[executive director]~~ and shall be verified
13 under oath by the authorized officers of the associations. It shall show the number
14 of outstanding policies, the number of matured policies, and all other information
15 connected with their business as the commissioner~~[executive director]~~ requires.
16 This report, or the substance thereof, shall be published in the annual report of the
17 commissioner~~[executive director]~~.
18 (2) The commissioner~~[executive director]~~ may make any examination of the books or
19 affairs of associations as he may make of insurance companies in this state.

20 ➔ Section 907. KRS 303.150 is amended to read as follows:

21 (1) If, upon examination of a burial association by the commissioner~~[executive~~
22 ~~director]~~ or any person designated by him to make the examination, it appears that
23 the liabilities of the association exceed its resources, and it cannot in a reasonable
24 time, not more than three (3) months from the date of the original default, pay its
25 accrued indebtedness in full, he shall report the facts to the Attorney General. The
26 Attorney General shall, upon the commissioner's~~[executive director's]~~ report, apply
27 to the Judge of the Franklin Circuit Court or to the Judge of the Circuit Court of the

1 county wherein the association is located for an order closing the business of the
 2 association, and appointing a receiver for the distribution of its assets among
 3 creditors. No final order shall be made until the association has had ten (10) days'
 4 notice of the application and an opportunity to be heard. Upon hearing the matter,
 5 the court may make any order which the interest of the association and the public
 6 may require.

- 7 (2) When any burial association discontinues business, or when for any cause a
 8 dissolution is decreed, or when for sixty (60) days any judgment remains
 9 unsatisfied, the Circuit Judge in any county in which the association has transacted
 10 business may appoint a receiver to distribute its assets among its policyholders for
 11 any persons having claims against the association. The assets shall be applied first,
 12 on accrued or natural claims or policies; second, on claims of any other kind or
 13 character; third, in payment to policyholders of all dues paid in by them; and, if a
 14 balance remains after payment of the above named claims, then that sum shall be
 15 returned to the burial association.

16 ➔Section 908. KRS 304.1-050 is amended to read as follows:

- 17 (1) "Commissioner~~[Executive director]~~" means the commissioner ~~[executive director]~~
 18 of the Department~~[Office]~~ of Insurance of this state.

- 19 (2) "Department~~[Office]~~" means the Department~~[Office]~~ of Insurance of this state,
 20 unless context otherwise requires.

21 ➔Section 909. KRS 304.1-100 is amended to read as follows:

- 22 (1) An "authorized" insurer is one duly authorized by a subsisting certificate of
 23 authority issued by the commissioner~~[executive director]~~ to transact insurance in
 24 this state.
 25 (2) An "unauthorized" insurer is one not so authorized.

26 ➔Section 910. KRS 304.1-110 is amended to read as follows:

- 27 (1) A "certificate of authority" is one issued by the commissioner~~[executive director]~~

1 evidencing the authority of an insurer to transact insurance in this state.

2 (2) A "license" is authority granted by the commissioner~~[executive director]~~ pursuant
3 to this code authorizing the licensee to engage in a business or operation of
4 insurance in this state other than as an insurer, and the certificate by which such
5 authority is evidenced.

6 ➔Section 911. KRS 304.1-170 is amended to read as follows:

7 Every form of insurance document and every rate or other filing lawfully in use on or
8 lawfully filed by June 18, 1970, may continue to be so used or be effective, until the
9 commissioner~~[executive director]~~ otherwise prescribes pursuant to this code; except that
10 neither this code nor the commissioner~~[executive director]~~ shall prohibit the use of any
11 such document before expiration of one (1) year from and after June 18, 1970.

12 ➔Section 912. KRS 304.1-180 is amended to read as follows:

13 No action taken by the commissioner~~[executive director]~~ nor proceeding commenced,
14 nor right accrued, nor violation of law existing under any act repealed by this chapter, is
15 affected by the repeal, but all procedure hereafter taken in reference thereto shall conform
16 to this code as far as possible.

17 ➔Section 913. KRS 304.2-010 is amended to read as follows:

18 *There is continued within the Public Protection Cabinet a department to be known as*
19 *the Department of Insurance*~~[There is continued within the Environmental and Public~~
20 ~~Protection Cabinet, Department of Public Protection, an office known as the Office of~~
21 ~~Insurance].~~

22 ➔Section 914. KRS 304.2-020 is amended to read as follows:

23 (1) The commissioner~~[executive director]~~ is the head of the Department~~[Office]~~ of
24 Insurance.

25 (2) The commissioner~~[executive director]~~ shall be appointed by the Governor with the
26 consent of the Senate, for a term not to exceed four (4) years on the basis of his or
27 her merit and fitness to perform the duties of the office as provided in KRS 12.040.

If the Senate is not in session when a term expires or a vacancy occurs, the Governor shall make the appointment to take effect at once, subject to the approval of the Senate when convened. Nothing contained in this subsection shall prohibit the commissioner~~[executive director]~~ of the Department~~[Office]~~ of Insurance from being reappointed.

(3) The following divisions are established within the department~~[Office]~~ of Insurance and shall be headed by directors appointed by the secretary of the ~~[Environmental and]~~ Public Protection Cabinet with the approval of the Governor in accordance with KRS 12.050:

(a) Property and Casualty Division;

(b) Health and Life Division~~[of Life Insurance]~~;

(c) Division of Financial Standards and Examination;

(d) ~~[Division of State Risk and Insurance Services;~~

(e) ~~—]~~Division of Agent Licensing;

~~(f)~~~~[(f)]~~ Division of Insurance Fraud Investigation;

~~(g)~~~~[(g)]~~ ~~[Division of]~~Consumer Protection Division~~[and Education;~~

(h) ~~—~~Division of Health Insurance Policy and Managed Care]; and

~~(i)~~~~[(i)]~~ Division of Kentucky Access.

➔Section 915. KRS 304.2-030 is amended to read as follows:

(1) Within thirty (30) days from the time of notice of his or her appointment and before entering upon his or her duties, the commissioner~~[executive director]~~ shall take the oath of office as required by KRS 62.010.

(2) Within the same period the commissioner~~[executive director]~~ shall execute and deliver a surety bond, in favor of the Commonwealth of Kentucky, in the penal sum fixed by the Governor, but not less than fifty thousand dollars (\$50,000) as required by KRS 62.160.

➔Section 916. KRS 304.2-040 is amended to read as follows:

1 (1) The Department~~[Office]~~ of Insurance shall have an official seal, in the form and
 2 design as so in use and on file in the office of the Secretary of State immediately
 3 prior to June 18, 1970.

4 (2) Every certificate or license issued by the commissioner~~[executive director]~~ shall
 5 bear the seal of the department~~[office]~~.

6 ➔Section 917. KRS 304.2-050 is amended to read as follows:

7 Every certificate, assignment or conveyance executed by the commissioner~~[executive~~
 8 ~~director]~~, relating to the business of insurance or an insurer, in pursuance of authority
 9 conferred by law, and sealed with the seal, shall be received as evidence, and may be
 10 recorded in the same manner and with the same effect as a deed regularly acknowledged
 11 or proved before an officer authorized by law to take the proof or acknowledgment of
 12 deeds.

13 ➔Section 918. KRS 304.2-060 is amended to read as follows:

14 The commissioner~~[executive director]~~ may appoint ~~[his own]~~ deputies with the prior
 15 written approval of the Governor as provided in KRS 12.050.

16 ➔Section 919. KRS 304.2-063 is amended to read as follows:

17 There is created within the~~[office a]~~ Consumer Protection~~[and Education]~~ Division the
 18 position~~[, which shall include an office]~~ of ombudsman.

19 ➔Section 920. KRS 304.2-065 is amended to read as follows:

20 (1) There is created within the Department~~[Office]~~ of Insurance the position of early
 21 warning analyst.

22 (2) The commissioner~~[executive director]~~ shall appoint a qualified person to serve as
 23 early warning analyst.

24 (3) The early warning analyst shall detect domiciled companies and companies doing a
 25 significant amount of business in the Commonwealth that are in a hazardous or
 26 potentially hazardous financial condition.

27 (4) The early warning analyst shall be part of the Financial Standards and Examination

1 Division.

2 (5) The early warning analyst shall:

3 (a) Take advantage of the information available through the Insurance Regulatory
4 Information System and use the information to monitor insurers;

5 (b) Seek information from other states' detection programs;

6 (c) Work with other Department~~[Office]~~ of Insurance employees representing
7 key regulatory areas of the department~~[office]~~;

8 (d) Coordinate and develop the use of an indicator list to determine if an insurer is
9 in a hazardous condition. The indicator list shall include but is not limited to
10 the following indicators:

11 1. An insurer fails to file a timely financial statement as established in KRS
12 Chapter 304;

13 2. An insurer files financial information which is false or misleading;

14 3. An insurer overstates its surplus by twenty-five percent (25%) or more;

15 4. An insurer fails to grant authorization to amend its financial statement
16 when requested;

17 5. An insurer's financial ratios are outside of the usual range established by
18 the National Association of Insurance Commissioners in the Insurance
19 Regulatory Information System;

20 6. A projection by the department~~[office]~~ of an insurer's current financial
21 condition indicates that the sum of its paid-in capital, paid-in surplus,
22 and contributed surplus will be reduced within the next twelve (12)
23 months;

24 7. An insurer's aggregate net retained risk, direct or assumed, under any
25 one (1) insurance policy or certificate of insurance under a group policy
26 is more than ten percent (10%) of the insurer's surplus, except where
27 otherwise permitted by law;

- 1 8. An insurer's reserves for losses and loss adjustment expenses are
- 2 discounted more than ten percent (10%) of the surplus;
- 3 9. An affiliate or subsidiary of an insurer is unable to pay its obligations as
- 4 the obligations become due and payable;
- 5 10. A life, accident, and health insurer has premium writings that result in
- 6 the surplus being less than five percent (5%) of the aggregate general
- 7 account reserves for the life insurance in force plus twenty-five percent
- 8 (25%) of the new annualized accident and health premium writing;
- 9 11. An insurer has reinsurance reserve credits, recoverable or receivable,
- 10 that are disputed by the reinsurer, or are due and payable and remain
- 11 unpaid, and the reinsurance credits, recoverables, and receivables are
- 12 more than ten percent (10%) of an insurer's surplus;
- 13 12. An insurer consistently issues subordinate premium or surplus
- 14 debentures to finance its operations;
- 15 13. An insurer fails to adequately maintain books and records in a manner
- 16 that permits examiners to determine the financial condition of the
- 17 insurer;
- 18 14. An insurer has reinsurance agreements affecting twenty percent (20%) or
- 19 more of the insurer's gross written premiums, direct or assumed, and the
- 20 assuming insurers are not licensed to do insurance business in the
- 21 Commonwealth of Kentucky;
- 22 15. An insurer's management does not have the experience, competence, or
- 23 trustworthiness to operate the insurer in a safe and sound manner;
- 24 16. An insurer's management engages in unlawful transactions;
- 25 17. An insurer fails to have an appraisal made on real estate upon which the
- 26 insurer has made a mortgage loan;
- 27 18. An insurer fails to comply with the terms of an agreement with an

1 affiliate;

2 19. An insurer has a pattern of refusing to settle valid claims within a
3 reasonable time after due proof of the loss has been received;

4 20. An insurer fails to follow a policy on rating and underwriting standards
5 appropriate to the risk;

6 21. An insurer violates KRS Chapter 304;

7 22. A final administrative or judicial order, initiated by an insurance
8 regulatory agency of another state, is issued against an insurer; and

9 23. An insurer is in any condition that the commissioner~~[executive director]~~
10 finds is a hazard to policyholders, creditors, or the general public;

11 (e) Recommend regulatory action and provide status reports to the
12 commissioner~~[executive director]~~; and

13 (f) Appear before the Interim Joint Committee on Banking and Insurance or the
14 Standing Committees on Banking and Insurance annually to report on the
15 status of domestic insurance companies and insurance companies doing a
16 substantial amount of business in the Commonwealth of Kentucky.

17 ➔Section 921. KRS 304.2-070 is amended to read as follows:

18 (1) The commissioner~~[executive director]~~ may from time to time contract for and
19 procure, on a fee or independent contract basis, such additional actuarial,
20 examination, rating, and other technical and professional services as he or she may
21 require for the discharge of his or her duties, subject to any other applicable laws of
22 this state.

23 (2) None of the individuals rendering such services shall be in the classified services of
24 the state.

25 ➔Section 922. KRS 304.2-080 is amended to read as follows:

26 (1) The commissioner~~[executive director]~~ or any deputy, examiner, actuary, assistant or
27 employee of the department~~[office]~~, shall not be connected with the management

of, or be financially interested, directly or indirectly, in any insurer, insurance agency or broker, or insurance transaction except as policyholder or claimant under a policy; except, that as to matters wherein a conflict of interest does not exist on the part of any such individual, the commissioner~~[executive director]~~ may employ or retain from time to time insurance actuaries, examiners, accountants, attorneys, or other technicians who are independently practicing their profession even though from time to time similarly employed or retained by insurers or others.

(2) No person shall directly or indirectly give or pay to the commissioner~~[executive director]~~ or any deputy, examiner, actuary, assistant, employee or technician retained by the department~~[office]~~; and the commissioner~~[executive director]~~, or any deputy, examiner, actuary, assistant, employee or technician retained by the department~~[office]~~, shall not directly or indirectly receive or accept any fee, compensation, loan, gift or other thing of value in addition to the compensation and expense allowance provided by law, or by contract with the commissioner~~[executive director]~~, for any service rendered or to be rendered, as such commissioner~~[executive director]~~, deputy, examiner, actuary, assistant, employee or technician, or in connection therewith.

(3) Subsection (1) of this section shall not be deemed to prohibit receipt by any such person of commissions or retirement benefits to which entitled by reason of services performed prior to becoming commissioner~~[executive director]~~ or prior to employment by the commissioner~~[executive director]~~.

➔ Section 923. KRS 304.2-090 is amended to read as follows:

(1) The commissioner~~[executive director]~~ may delegate to any deputy, assistant, counsel, actuary, examiner or employee of the department~~[office]~~, the exercise or discharge in the commissioner's~~[executive director's]~~ name of any power, duty or function, whether ministerial, discretionary or of whatever character, vested in or imposed upon the commissioner~~[executive director]~~ under this code.

1 (2) The official act of any such person so acting in the commissioner's~~[executive~~
 2 ~~director's]~~ name and by his or her authority shall be deemed to be an official act of
 3 the commissioner~~[executive director]~~.

4 ➔ Section 924. KRS 304.2-100 is amended to read as follows:

5 (1) The commissioner~~[executive director]~~ shall personally supervise the operations of
 6 the department~~[office]~~.

7 (2) The commissioner~~[executive director]~~ shall examine and inquire into violations of
 8 this code, shall enforce the provisions of this code with impartiality and shall
 9 execute the duties imposed upon him or her by this code.

10 (3) The commissioner~~[executive director]~~ shall have the powers and authority
 11 expressly conferred upon him or her by or reasonably implied from the provisions
 12 of this code.

13 (4) The commissioner~~[executive director]~~ may conduct such examinations and
 14 investigations of insurance matters, in addition to examinations and investigations
 15 expressly authorized, as the commissioner~~[he]~~ may deem proper upon reasonable
 16 and probable cause to determine whether any person has violated any provisions of
 17 this code or to secure information useful in the lawful administration of any such
 18 provision. The cost of such additional examinations and investigations shall be
 19 borne by the state.

20 (5) The commissioner~~[executive director]~~ may establish and maintain such branch
 21 offices in this state as may be reasonably required for the efficient administration of
 22 this code.

23 (6) The commissioner~~[executive director]~~ shall have such additional powers and duties
 24 as may be provided by other laws of this state.

25 ➔ Section 925. KRS 304.2-105 is amended to read as follows:

26 Notwithstanding any other provision of law, to the extent authorized by the
 27 commissioner~~[executive director]~~ by administrative regulation, a licensed agent,

1 producer, broker, or insurer has the power to engage in any insurance activity that
 2 financial institutions chartered by or otherwise subject to the jurisdiction of the federal
 3 government are authorized to engage in according to federal law or regulation or by a
 4 court of competent jurisdiction.

5 ➔Section 926. KRS 304.2-110 is amended to read as follows:

6 (1) The commissioner~~[executive director]~~ may make reasonable rules and regulations
 7 necessary for or as an aid to the effectuation of any provision of this code. No such
 8 rule or regulation shall extend, modify, or conflict with any law of this state or the
 9 reasonable implications thereof.

10 (2) No penalty shall apply to any act done or omitted in good faith in conformity with
 11 any such rule or regulation, notwithstanding that such rule or regulation may, after
 12 such act or omission, be amended or rescinded or determined by judicial or other
 13 authority to be invalid for any reason.

14 ➔Section 927. KRS 304.2-120 is amended to read as follows:

15 (1) In general, orders and notices of the commissioner~~[executive director]~~ shall be
 16 issued in accordance with this chapter. Notices, recommended orders, and final
 17 orders issued as a result of an administrative hearing shall be issued in accordance
 18 with KRS Chapter 13B.

19 (2) Orders and notices of the commissioner~~[executive director]~~ shall be effective only
 20 when in writing signed by the commissioner~~[executive director]~~ or by the
 21 commissioner's~~[executive director's]~~ authority.

22 (3) Every order of the commissioner~~[executive director]~~ shall state its effective date
 23 and shall concisely state:

24 (a) Its intent or purpose;

25 (b) The grounds on which it is based;

26 (c) The provisions of this code under which action is taken or proposed to be
 27 taken; and

(d) All other matters required by law.

(4) All persons holding licenses or certificates of authority from the commissioner~~[executive director]~~ shall maintain current residence, business, home office, and administrative addresses, as applicable, on file with the commissioner~~[executive director]~~. Licensees shall inform the commissioner~~[executive director]~~ in writing in a format acceptable to the commissioner~~[executive director]~~ of any change in addresses or legal name within thirty (30) days of the change. As a condition to holding a license or certificate of authority from the commissioner~~[executive director]~~, persons holding licenses or certificate of authority are deemed to have consented to service of notices and orders of the commissioner~~[executive director]~~ at their addresses on file with the commissioner~~[executive director]~~ and any notice or order of the commissioner~~[executive director]~~ mailed or delivered to the address on file with the commissioner~~[executive director]~~ constitutes valid service of notice or order.

→ Section 928. KRS 304.2-130 is amended to read as follows:

- (1) The commissioner~~[executive director]~~ may invoke the aid of the courts through injunction or other proper process, mandatory or otherwise, to enjoin any existing or threatened violation of any provision of this code, or to enforce any proper order made by him or her or action taken by him or her.
- (2) If the commissioner~~[executive director]~~ has reason to believe that any person has violated any provision of this code, or other law applicable to insurance operations, for which criminal prosecution is provided and in his or her opinion would be in order, the commissioner~~[he]~~ shall give the information relative thereto to the appropriate Commonwealth attorney or to the Attorney General. The Commonwealth attorney or Attorney General shall promptly institute such action or proceedings against such person as in his or her opinion the information may require or justify.

1 (3) Whenever the commissioner~~[executive director]~~ may deem it necessary, he or she
 2 may employ counsel, or call upon the Attorney General of this state for legal
 3 counsel and such assistance as may be necessary.

4 (4) The Attorney General upon request of the commissioner~~[executive director]~~ is
 5 authorized to proceed in the courts of any other state or in any federal court or
 6 agency to enforce an order or decision in any court proceeding or in any
 7 administrative proceeding before the commissioner~~[executive director]~~.

8 ➔Section 929. KRS 304.2-140 is amended to read as follows:

9 Any person who willfully violates any rule, regulation, subpoena, or order of the
 10 commissioner~~[executive director]~~ or any provision of this code shall be subject to
 11 suspension or revocation of certificate of authority or license, or administrative fine or
 12 both.

13 ➔Section 930. KRS 304.2-150 is amended to read as follows:

14 (1) The commissioner~~[executive director]~~ shall carefully preserve in the
 15 department~~[office]~~ and in permanent form, a correct account of all his or her
 16 transactions and of all fees and moneys received by him or her by virtue of his or
 17 her office, together with all financial statements, examination reports,
 18 correspondence, filings, and documents duly received by the department~~[office]~~.

19 The commissioner~~[executive director]~~ shall hand the same over to his or her
 20 successor in office.

21 (2) The commissioner~~[executive director]~~ shall keep a suitable record of all insurer
 22 certificates of authority and of all licenses issued under this code, together with all
 23 applicable suspensions and revocations and of the causes thereof.

24 (3) Unless otherwise provided by law, records of the department~~[office]~~ shall be open
 25 to the extent provided by the Kentucky Open Records Act, KRS 61.872 to 61.884:

26 (a) The following records shall be open:

27 1. Rate and form filings and information filed in support thereof;

- 1 2. Other records as provided by law; and
- 2 3. All information filed by the department~~[office]~~ with the National
- 3 Association of Insurance Commissioners, which that association makes
- 4 available;

5 (b) The following records shall be closed:

- 6 1. All information received in confidence from insurance supervisory
- 7 officials of other states or countries, or the National Association of
- 8 Insurance Commissioners, including, but not limited to, information
- 9 from the insurance regulatory information system. However, records
- 10 described in this paragraph may be used by the commissioner~~[executive~~
- 11 ~~director]~~ in enforcement prosecutions and proceedings for disciplinary
- 12 action, and may be disclosed to other law enforcement authorities; and
- 13 2. Other records as provided by law; and

14 (c) When inspection of department~~[office]~~ records is denied, any person

15 challenging the denial shall follow the procedures set forth in the Kentucky

16 Open Records Act, KRS 61.872 to 61.884.

17 (4) After five (5) years, the commissioner~~[executive director]~~ may destroy unneeded or

18 obsolete records and filings in the department~~[office]~~.

19 (5) The department~~[office]~~ shall not charge a fee inconsistent with fees charged by

20 other state agencies for copies of records requested by the public pursuant to this

21 section.

22 ➔Section 931. KRS 304.2-160 is amended to read as follows:

23 Each written and signed complaint received by the Department~~[Office]~~ of Insurance shall

24 be recorded by the department~~[office]~~, including the subsequent disposition thereof, and

25 maintained for a period of not less than five (5) years. The records of such complaints

26 shall be indexed whenever applicable both by the name of the insurer and by the name of

27 the licensee, including agent, surplus lines broker, adjuster, administrator, reinsurance

1 intermediary broker or manager, rental vehicle agent or managing employee, specialty
 2 credit producer or managing employee, life settlement broker or provider, or consultant
 3 involved. The commissioner~~[executive director]~~ shall consider such complaints before
 4 issuing or renewing any certificate of authority or license.

5 ➔Section 932. KRS 304.2-165 is amended to read as follows:

6 (1) The commissioner~~[executive director]~~ shall review, and investigate where
 7 applicable, all written complaints involving entities or individuals engaged in the
 8 business of insurance in Kentucky.

9 (2) The commissioner~~[executive director]~~ shall send a copy of the complaint to the
 10 entity or individual and the entity or individual shall send a written or electronic
 11 message response to the commissioner~~[executive director]~~ within fifteen (15)
 12 calendar days from the date of the commissioner's~~[executive director's]~~ letter.

13 (3) Upon review of a complaint, the commissioner~~[executive director]~~ shall make a
 14 finding to the entity or individual and the complainant.

15 (4) This section shall not limit the power of the commissioner~~[executive director]~~ to
 16 exercise any other authority under this code as to an insurance dispute.

17 ➔Section 933. KRS 304.2-170 is amended to read as follows:

18 (1) Upon the request of any person and payment of the applicable fee, the
 19 commissioner~~[executive director]~~ shall furnish a certified copy of any record or
 20 document in the department~~[office]~~ which is then subject to public inspection, as
 21 provided in subsection (3) of KRS 304.2-150.

22 (2) Reproductions of records or documents on file in the department~~[office]~~, when duly
 23 certified by the commissioner~~[executive director]~~, shall be received in evidence in
 24 all proceedings and courts equally and in like manner as if they were the originals,
 25 and shall have the same effect and force as such originals, as in other cases provided
 26 by law or rule of court.

27 ➔Section 934. KRS 304.2-190 is amended to read as follows:

1 (1) The commissioner~~{executive-director}~~ may have the directory of authorized
 2 insurers, of licensed insurance representatives, license examination material,
 3 insurance laws and related laws and regulations under his or her administration
 4 published in pamphlet form from time to time, and may fix a price for each copy not
 5 to exceed one hundred twenty-five percent (125%) of cost.

6 (2) The commissioner~~{executive-director}~~ shall account for and deposit all moneys so
 7 received in the manner provided under KRS 304.4-020.

8 ➔Section 935. KRS 304.2-195 is amended to read as follows:

9 (1) The commissioner~~{executive-director}~~ may enter into interstate compacts for
 10 issuing certificates of authority to insurers if the commissioner~~{executive-director}~~
 11 determines that:

12 (a) Each state participating in the compact has requirements for issuing
 13 certificates of authority that provide protections substantially similar to or
 14 greater than the requirements of this subtitle; or

15 (b) The interstate compact contains requirements for issuing certificates of
 16 authority that provide protections substantially similar to or greater than the
 17 requirements of this subtitle.

18 (2) In lieu of the documents required in KRS 304.3-150 to be filed with an application
 19 for certificate of authority, the commissioner~~{executive-director}~~ may accept
 20 documentation in accordance with the terms of the interstate compact.

21 (3) The commissioner~~{executive-director}~~ may issue certificates of authority to insurers
 22 in accordance with the terms of the interstate compact.

23 ➔Section 936. KRS 304.2-200 is amended to read as follows:

24 (1) The commissioner~~{executive-director}~~ may furnish on request of the insurance
 25 supervisory official of any state, province or country any information which it is the
 26 commissioner's~~{his}~~ duty by law to ascertain respecting authorized insurers.

27 (2) The commissioner~~{executive-director}~~ may be a member of the National

1 Association of Insurance Commissioners or any successor organization, and may
 2 participate in and support other cooperative activities of public officers having
 3 supervision of the business of insurance.

4 ➔ Section 937. KRS 304.2-205 is amended to read as follows:

5 (1) The provisions of this section apply to all domestic, foreign, and alien insurers
 6 fraternal benefit societies, health maintenance organizations, and nonprofit hospital,
 7 medical-surgical, dental, and health service corporations authorized to transact
 8 business pursuant to this chapter.

9 (2) (a) Each domestic, foreign, and alien insurer and fraternal benefit society, health
 10 maintenance organization, and nonprofit hospital, medical-surgical, dental,
 11 and health service corporation authorized to transact business pursuant to this
 12 chapter shall annually on or before March 1 of each year file with the National
 13 Association of Insurance Commissioners a copy of its annual statement
 14 convention blank, along with additional filings as prescribed by the
 15 commissioner~~executive director~~, for the preceding year. The information
 16 filed with the National Association of Insurance Commissioners shall be in
 17 the same format and scope as that required by the commissioner~~executive~~
 18 ~~director~~ and shall include the signed jurat page and the life and health
 19 actuarial certification. Any amendments or additions to the annual statement
 20 filing subsequently filed with the commissioner~~executive director~~ shall also
 21 be filed with the National Association of Insurance Commissioners;

22 (b) Foreign insurers, health maintenance organizations, and fraternal benefit
 23 societies that are domiciled in states which have laws substantially similar to
 24 paragraph (a) of this subsection shall be deemed in compliance with this
 25 section; and

26 (c) Nothing contained in this section shall be deemed to require anyone filing
 27 documents with the National Association of Insurance Commissioners to pay

1 any filing fee for a filing.

2 (3) Members of the National Association of Insurance Commissioners, their duly
3 authorized committees, subcommittees, and task forces, their delegates, National
4 Association of Insurance Commissioners employees, and all others charged with the
5 responsibility of collecting, reviewing, analyzing, or disseminating the information
6 developed from the filing of the annual statement convention blanks shall not be
7 subject to civil liability for defamation or any other cause of action by virtue of their
8 collection, review, analysis, or dissemination of the data and information collected
9 from the filings required by this section while acting in good faith.

10 ➔Section 938. KRS 304.2-210 is amended to read as follows:

11 (1) As used in KRS 304.2-210 to 304.2-300, unless the context requires otherwise,
12 "examination workpaper" means a written or recorded document, note,
13 memorandum, critique, comment, recommendation, or other information copied,
14 established, created, or retained by the commissioner~~[executive director]~~ or his
15 designee for the purpose of conducting an examination or drafting an examination
16 report.

17 (2) For the purpose of determining financial condition, ability to fulfill and manner of
18 fulfillment of its obligations, the nature of its operations, and compliance with law,
19 the commissioner~~[executive director]~~ shall examine the affairs, transactions,
20 accounts, records, and assets of each authorized insurer as often as reasonably
21 necessary. He shall so examine each domestic insurer not less frequently than every
22 three (3) years. Examination of a reciprocal insurer may include examination of its
23 attorney-in-fact as to its transactions relating to the insurer. Examination of an alien
24 insurer may be limited to its insurance transactions and affairs in the United States,
25 except as the commissioner~~[executive director]~~ otherwise requires.

26 (3) In scheduling and determining the nature, scope, and frequency of the examinations,
27 the commissioner~~[executive director]~~ shall consider the results of financial

1 statement analyses and ratios, changes in management or ownership, actuarial
 2 opinions, reports of independent certified public accountants, and other criteria as
 3 set forth in the Examiner's Handbook adopted by the National Association of
 4 Insurance Commissioners.

5 (4) For purposes of completing an examination of an insurer, the
 6 commissioner~~executive director~~ may examine or investigate any person or the
 7 business of any person, insofar as the examination or investigation is, in the sole
 8 discretion of the commissioner~~executive director~~, necessary and material to the
 9 examination of the insurer.

10 (5) The commissioner~~executive director~~ shall in like manner examine each insurer
 11 applying for an initial certificate of authority to transact insurance in this state.

12 (6) In lieu of making his own examination, the commissioner~~executive director~~ may,
 13 in his discretion, accept a full report of the most recently completed examination of
 14 a foreign, or alien, insurer, certified to by the insurance supervisory official of
 15 another state. Reports shall only be accepted if:

16 (a) The insurance department was at the time of the examination accredited under
 17 the National Association of Insurance Commissioners' Financial Regulation
 18 Standards and Accreditation Program; or

19 (b) The examination is performed under the supervision of an accredited
 20 insurance department or with the participation of one (1) or more examiners
 21 who are employed by an accredited state insurance department and who, after
 22 a review of the examination work papers and report, state under oath that the
 23 examination was performed in a manner consistent with the standards and
 24 procedures required by their insurance department.

25 (7) As far as practical, the examination of a foreign or alien insurer shall be made in
 26 cooperation with the insurance supervisory officers of other states in which the
 27 insurer transacts business, and for the purpose thereof, the commissioner~~executive~~

1 ~~director~~] may participate in joint examinations of insurers or be represented in an
 2 examination by an examiner of another state.

3 ➔Section 939. KRS 304.2-220 is amended to read as follows:

4 For the purpose of ascertaining compliance with law, or relationships and transactions
 5 between any person and any insurer or proposed insurer, the commissioner~~[executive~~
 6 ~~director~~] may as often as reasonably necessary examine the accounts, records, documents,
 7 and transactions pertaining to or affecting the insurance affairs or proposed insurance
 8 affairs and transactions of:

- 9 (1) Any insurance holding company; or person holding the shares of voting stock or
 10 policyholder proxies of an insurer as voting trustee or otherwise, for the purpose of
 11 controlling the management thereof;
- 12 (2) Any insurance agent, surplus lines broker, adjuster, consultant, administrator,
 13 reinsurance intermediary broker or manager, rental vehicle agent or managing
 14 employee, specialty credit producer or managing employee, or any person holding
 15 himself or herself out as any of the foregoing;
- 16 (3) Any person having a contract under which he or she enjoys by terms or in fact the
 17 exclusive or dominant right to manage or control the insurer, as voting trustee, or
 18 otherwise; and
- 19 (4) Any person in this state engaged in, or proposing to be engaged in this state in, or
 20 holding himself or herself out in this state as so engaging or proposing, or in this
 21 state assisting in the promotion, formation or financing of an insurer or insurance
 22 holding corporation, or corporation or other group to finance an insurer or the
 23 production of its business.

24 ➔Section 940. KRS 304.2-230 is amended to read as follows:

- 25 (1) Whenever the commissioner~~[executive director]~~ determines to examine the affairs
 26 of any person, he shall designate one or more examiners and instruct them as to the
 27 scope of the examination. The examiner shall, upon demand, exhibit his official

1 credentials to the person under examination. In conducting the examination, the
 2 examiner shall observe those guidelines and procedures set forth in the Examiners'
 3 Handbook adopted by the National Association of Insurance Commissioners. The
 4 commissioner~~[executive director]~~ may also employ other guidelines or procedures
 5 as the commissioner~~[executive director]~~ deems appropriate.

6 (2) (a) An examiner may not be appointed by the commissioner~~[executive director]~~
 7 if the examiner, either directly or indirectly, has a conflict of interest or is
 8 affiliated with the management of or owns a pecuniary interest in any person
 9 subject to examination. This subsection shall not be construed to
 10 automatically preclude an examiner from being:

- 11 1. A policyholder or claimant under an insurance policy;
- 12 2. A grantor of a mortgage or similar instrument on the examiner's
 13 residence to a regulated entity if done under customary terms and in the
 14 ordinary course of business;
- 15 3. An investment owner in shares of regulated diversified investment
 16 companies; or
- 17 4. A settler or beneficiary of a "blind trust" into which any otherwise
 18 impermissible holdings have been placed.

19 (b) Notwithstanding the requirements of paragraph (a) of this subsection, the
 20 commissioner~~[executive director]~~ may retain from time to time, on an
 21 individual basis, qualified actuaries, certified public accountants, or other
 22 similar individuals who are independently practicing their professions even
 23 though these persons may from time to time be similarly employed or retained
 24 by persons subject to examination.

25 (3) Any person performing an examination of an insurer on behalf of, and as called by,
 26 the commissioner~~[executive director]~~ shall have official immunity and shall be
 27 immune from suit and liability, both personally and in their official capacities, for

1 any claim for damage to, or loss of property, or personal injury, or other civil
2 liability caused by or resulting from any alleged act, error, or omission of the
3 examiner or any assistant or contractor arising out of, or by reason of, their duties or
4 employment. Nothing in this subsection shall be construed to hold the examiner or
5 any assistant or contractor immune from suit and liability for any damage, loss,
6 injury, or liability caused by the intentional or willful and wanton misconduct of the
7 examiner, any assistant, or contractor.

8 (4) The commissioner~~[executive director]~~ shall conduct such examination in an
9 expeditious, fair and impartial manner.

10 (5) Upon any such examination the commissioner~~[executive director]~~, or the examiner
11 if specifically so authorized in writing by the commissioner~~[executive director]~~,
12 shall have power to issue subpoenas, administer oaths, and to examine under oath
13 any individual as to any matter relevant to the affairs under examination or relevant
14 to the examination.

15 (6) Every person being examined, its officers, attorneys, employees, agents and
16 representatives shall make freely available to the commissioner~~[executive director]~~
17 or his examiners the accounts, records, documents, files, information, assets and
18 matters of such person in his possession or control relating to the subject of the
19 examination and shall facilitate the examination.

20 (7) Neither the commissioner~~[executive director]~~ nor any examiner shall remove any
21 record, account, document, file or other property of the person being examined from
22 the offices or place of such person except with the written consent of such person in
23 advance of such removal or pursuant to an order of court duly obtained. This
24 provision shall not be deemed to affect the making and removal of copies or
25 abstracts of any such record, account, document or file.

26 (8) Any individual who refuses without just cause to be examined under oath or who
27 willfully obstructs or interferes with the examiners in the exercise of their authority

1 pursuant to this section is guilty of a violation of this code.

- 2 (9) The commissioner~~[executive director]~~ may terminate or suspend an examination in
 3 order to pursue other legal or regulatory action pursuant to the insurance laws of this
 4 state. Findings of fact and conclusions made pursuant to an examination shall be
 5 prima facie evidence in any legal or regulatory action. The commissioner~~[executive~~
 6 ~~director]~~ may use and, if appropriate, may make public any final or preliminary
 7 examination report, any examiner's workpapers or other documents, or any other
 8 information discovered or developed during the course of the examination in the
 9 furtherance of any legal or regulatory action that the commissioner~~[executive~~
 10 ~~director]~~ may, in his sole discretion, deem appropriate. Nothing in this subsection
 11 shall be binding upon the court in making determinations about relevancy and
 12 admissibility in any civil action pertaining to any such documents.

13 ➔Section 941. KRS 304.2-240 is amended to read as follows:

- 14 (1) If the commissioner~~[executive director]~~ deems it necessary to value any asset
 15 involved in such an examination, he or she may make written request of the person
 16 being examined to appoint one or more appraisers who by reason of education,
 17 experience or special training and disinterest, are competent to appraise the asset.
 18 Selection of any such appraiser shall be subject to the written approval of the
 19 commissioner~~[executive director]~~. If no such appointment is made within twenty
 20 (20) days after the request therefor was delivered to such person, the
 21 commissioner~~[executive director]~~ may appoint the appraiser or appraisers.
 22 (2) Any such appraisal shall be expeditiously made, and a copy thereof furnished to the
 23 commissioner~~[executive director]~~ and to the person being examined.
 24 (3) The reasonable expense of the appraisal shall be borne by the person being
 25 examined.

26 ➔Section 942. KRS 304.2-250 is amended to read as follows:

- 27 (1) Upon completion of an examination, the examiner in charge shall make a true report

thereof which shall comprise only facts appearing upon the books, records or other documents of the person examined, or as ascertained from the sworn testimony of its officers or agents or other individuals examined concerning its affairs, and such conclusions and recommendations as may reasonably be warranted from such facts.

(2) The report of examination of an insurer shall be prima facie evidence in any action or proceeding for the receivership, conservation or liquidation of the insurer brought in the name of the state against the insurer, its officers or agents upon the facts stated therein, and whether or not the report has then been filed in the department~~[office]~~ as provided in KRS 304.2-260.

(3) Except as provided in KRS 304.2-260 and 304.2-270, documents, materials, or other information, including examination workpapers, in the possession or control of the commissioner~~[executive director]~~ that are created, produced, or obtained by or disclosed to the commissioner~~[executive director]~~ or any other person in the course of an examination made under this subtitle, or in the course of an examination made under KRS 304.2-210 to 304.2-300, or in the course of analysis by the commissioner~~[executive director]~~ of the financial condition, or market conduct of an insurer shall be confidential by law and privileged but may be used, received, and shared in accordance with KRS 304.2-210.

➔ Section 943. KRS 304.2-260 is amended to read as follows:

(1) The commissioner~~[executive director]~~ shall deliver a copy of the examination report to the person examined, together with a notice affording the person twenty (20) days or additional reasonable period as the commissioner~~[executive director]~~ for good cause may allow within which to review the report and recommend changes therein.

(2) If so requested by the person examined, within the period allowed under subsection (1) of this section, or if deemed advisable by the commissioner~~[executive director]~~ without a request, the commissioner~~[executive director]~~ shall hold a hearing

1 relative to the report and shall not file the report in the department~~[office]~~ for
 2 public inspection until after the hearing and his order thereon, except that the
 3 commissioner~~[executive director]~~ may furnish a copy of the report to the Governor
 4 or Attorney General of the state pending final decision thereon.

5 (3) If no hearing has been requested or held, the commissioner~~[executive director]~~ shall
 6 fully consider and review the report, together with any written submissions or
 7 rebuttals and any relevant portions of the examiner's workpapers and enter an order
 8 within sixty (60) days of the end of the period allowed under subsection (1) of this
 9 section. The order of the commissioner~~[executive director]~~ shall:

10 (a) Adopt the examination report as filed or with modifications or corrections. If
 11 the examination report reveals that the person is operating in violation of or
 12 has violated any law, administrative regulation, or prior order of the
 13 commissioner~~[executive director]~~, the commissioner~~[executive director]~~ may
 14 order the person to take action to cure the violations and impose penalties as
 15 the commissioner~~[executive director]~~ considers necessary and appropriate; or

16 (b) Reject the examination report with directions to the examiners to reopen the
 17 examination for purposes of obtaining additional data, documentation, or
 18 information, and refile as provided in KRS 304.2-250; or

19 (c) Call for a hearing for purposes of obtaining additional documentation, data,
 20 information, and testimony.

21 (4) Upon entry of the commissioner's~~[executive director's]~~ order, the examination
 22 report, with modifications, if any, thereof as the commissioner~~[executive director]~~
 23 deems proper, shall be filed in the department~~[office]~~ for public inspection, except
 24 that the commissioner~~[executive director]~~ may withhold from public inspection any
 25 examination report for so long as he deems the withholding to be necessary for the
 26 protection of the person examined against unwarranted injury or to be in the public
 27 interest and except that the commissioner~~[executive director]~~ shall withhold from

1 public inspection any examination report of a domestic insurer as provided in KRS
2 304.2-270.

3 (5) An examination workpaper shall be deemed confidential information and shall not
4 be available for public inspection, except that the commissioner~~[executive director]~~
5 may in the commissioner's~~[director's]~~ discretion disclose an examination
6 workpaper, the content of a preliminary examination report, examination results, or
7 any other matter resulting to an examination report to the department of insurance
8 of any other state or country, or to the National Association of Insurance
9 Commissioners, or to law enforcement officials of this or any other state, or to an
10 agency of this state or any other state or the federal government at any time, if the
11 agency or office receiving the report or matters relating to the report agrees in
12 writing to hold the information confidential and in a manner consistent with this
13 section.

14 (6) The commissioner~~[executive director]~~ shall forward to the person examined a copy
15 of the examination report as filed for public inspection, together with the order of
16 the commissioner~~[executive director]~~.

17 (7) If the report concerns the examination of a domestic insurer, a copy of the report,
18 when filed for public inspection, or if withheld from public inspection in
19 accordance with KRS 304.2-270 or subsection (4) of this section, together with the
20 order of the commissioner~~[executive director]~~, shall be presented by the insurer's
21 chief executive officer to the insurer's board of directors or similar governing body
22 at a meeting thereof which shall be held within ninety (90) days next following
23 receipt of the report and order. A copy of the report and order shall also be
24 furnished by the secretary of the insurer, if incorporated, or by the attorney-in-fact if
25 a reciprocal insurer, or Lloyd's plan insurer, to each member of the insurer's board
26 of directors or board of governors, if a reciprocal insurer, or Lloyd's plan insurer,
27 and the certificate of the secretary or attorney-in-fact, which shall be filed promptly

1 with the department~~{office}~~, that a copy of the examination report and order, has
 2 been so furnished shall be deemed to constitute knowledge of the contents of the
 3 report and order by each member.

4 (8) The report when so filed in the department~~{office}~~ shall be admissible in evidence
 5 in any action or proceeding brought by the commissioner~~{executive director}~~
 6 against the person examined, or against its officers, employees, or agents. In any
 7 action or proceeding brought by the commissioner~~{executive director}~~, the
 8 commissioner~~{executive director}~~ or his examiners may, however, at any time
 9 testify and offer proper evidence as to information secured or matters discovered
 10 during the course of an examination, whether or not a written report of the
 11 examination has been either made, furnished, or filed in the department~~{office}~~.

12 (9) If the commissioner~~{executive director}~~ determines that regulatory action is
 13 appropriate as a result of an examination, he or she may initiate any proceedings or
 14 actions provided by law.

15 ➔Section 944. KRS 304.2-270 is amended to read as follows:

16 The report of examination of a domestic insurer, although filed in the department~~{office}~~
 17 as provided in KRS 304.2-260, shall nevertheless not be for public inspection except as to
 18 those portions of the report showing the insurer's current financial condition. The
 19 examination workpapers shall be deemed confidential information and shall not be
 20 available for public inspection, except that the commissioner~~{executive director}~~ may in
 21 his discretion disclose the content of an examination report, preliminary examination
 22 report, examination results, or any other matter relating to an examination report, to the
 23 department~~{Office}~~ of insurance of any other state or country, or to law enforcement
 24 officials of this or any other state, or to an agency of this or any other state or the federal
 25 government at any time, if the agency or office receiving the report or matters relating to
 26 the report agrees in writing to hold it confidential and in a manner consistent with this
 27 section and KRS 304.2-260.

1 ➔ Section 945. KRS 304.2-280 is amended to read as follows:

2 For the conduct of or assistance in examinations under this chapter the
 3 commissioner~~[executive director]~~ shall appoint as examiners only individuals who by
 4 reason of education, experience, or special training are competent to perform the duties
 5 and fulfill the responsibilities of an insurance examiner. In the selection of examiners the
 6 commissioner~~[executive director]~~ shall give due consideration to standards and
 7 qualifications therefor recommended by the National Association of Insurance
 8 Commissioners or any successor organization thereto.

9 ➔ Section 946. KRS 304.2-290 is amended to read as follows:

10 (1) The expense of examination shall be borne by the person examined. Such expense
 11 shall include only the reasonable and proper lodgings, meals and travel expenses of
 12 the commissioner~~[executive director]~~ and the commissioner's~~[his]~~ examiners and
 13 assistants, including expert assistance, reasonable compensation as to such
 14 examiners and assistants and incidental expense as necessarily incurred in the
 15 examination. As to expense and compensation involved in any such examination
 16 the commissioner~~[executive director]~~ may give due consideration to scales and
 17 limitations recommended by the National Association of Insurance Commissioners
 18 and outlined in the examination manual sponsored by that association.

19 (2) Such person examined shall promptly pay to the commissioner~~[executive director]~~
 20 the expenses of the examination upon presentation by the commissioner~~[him]~~ of a
 21 reasonably detailed written statement thereof.

22 ➔ Section 947. KRS 304.2-300 is amended to read as follows:

23 (1) There is created in the State Treasury the "Examination Expense Revolving Fund"
 24 for the use of the department~~[office]~~. The commissioner~~[executive director]~~ shall
 25 promptly deposit all funds received under a statute requiring examination expenses
 26 to be paid by the party examined and deposited with the State Treasurer to the credit
 27 of the fund.

- 1 (2) Moneys for travel, per diem, compensation and other necessary and authorized
 2 expenses incurred by an examiner or other department~~[office]~~ representative in the
 3 examination of any person required to pay, and making payment of, the expense of
 4 examination pursuant to KRS 304.2-290 shall be paid out of the examination
 5 expense revolving fund, upon approval of the commissioner~~[executive director]~~.
- 6 (3) Moneys for travel and other necessary expenses assessed pursuant to KRS 304.8-
 7 190 shall be paid out of the examination expense revolving fund upon approval of
 8 the commissioner~~[executive director]~~.
- 9 (4) If any amount in the revolving fund remains unexpended at the end of any fiscal
 10 year, that amount shall not lapse, but shall remain credited to the account and may
 11 be used during the succeeding year or years.
- 12 ➔Section 948. KRS 304.2-310 is amended to read as follows:
- 13 (1) The commissioner~~[executive director]~~ may hold a hearing, without request by
 14 others, for any purpose within the scope of this code.
- 15 (2) The commissioner~~[executive director]~~ shall hold a hearing:
- 16 (a) If required by any other provision of this code; or
- 17 (b) Upon written application for a hearing by a person aggrieved by any act,
 18 threatened act, or failure of the commissioner~~[executive director]~~ to act, or by
 19 any report, administrative regulation, or order of the commissioner~~[executive~~
 20 ~~director]~~ (other than an order for the holding of a hearing, or a final order
 21 entered after a hearing, of which hearing the person had notice). Any
 22 application for a hearing shall be filed in the department~~[office]~~ within sixty
 23 (60) days after the person knew or reasonably should have known, of the act,
 24 threatened act, failure, report, administrative regulation, or order, unless a
 25 different period is provided for by other laws applicable to the particular
 26 matter, in which case the other law shall govern.
- 27 (3) Any application for a hearing shall briefly state the respects in which the applicant

1 is so aggrieved, together with the grounds to be relied upon as a basis for the relief
2 to be sought at the hearing.

3 (4) If the commissioner~~[executive director]~~ finds that the application is made in good
4 faith, that the applicant would be so aggrieved if his or her grounds are established,
5 the commissioner~~[he]~~ shall hold the hearing in accordance with KRS Chapter 13B.

6 (5) Pending the hearing and the issuance of the final order resulting from the hearing,
7 the commissioner~~[executive director]~~ shall suspend or postpone the effective date
8 of the~~[his]~~ previous action.

9 ➔Section 949. KRS 304.2-320 is amended to read as follows:

10 (1) Notice of hearings shall be given in accordance with the provision of this chapter
11 and KRS Chapter 13B. If the persons to be given notice are not specified in the
12 provision pursuant to which the hearing is held, the commissioner~~[executive~~
13 ~~director]~~ shall give notice to all persons whose pecuniary interest, to the
14 commissioner's~~[executive director's]~~ knowledge or belief, are to be directly and
15 immediately affected by the hearing.

16 (2) If any hearing is to be held for consideration of matters which, under subsection (1)
17 of this section, would otherwise require separate notice to more than thirty (30)
18 persons, in lieu of other notice the commissioner~~[executive director]~~ may give
19 notice of the hearing by publication pursuant to KRS Chapter 424; but the
20 commissioner~~[executive director]~~ shall mail this notice to all persons who had
21 requested the same in writing in advance and have paid to the
22 commissioner~~[executive director]~~ the reasonable amount fixed by him or her to
23 cover the cost thereof.

24 ➔Section 950. KRS 304.2-340 is amended to read as follows:

25 (1) The commissioner~~[executive director]~~ or an~~[his]~~ authorized designee conducting a
26 hearing, examination, or investigation by his or her authority shall have power to
27 subpoena witnesses, compel their attendance, administer oaths, examine any person

1 under oath relative to the subject of the hearing, examination, or investigation, and
 2 to compel any person to subscribe to his or her testimony after it has been correctly
 3 reduced to writing, and, in connection therewith, to require the production of any
 4 books, papers, records, correspondence, or other documents which the
 5 commissioner~~[he]~~ deems relevant to the inquiry.

6 (2) A subpoena issued pursuant to this section shall have the same force and effect as if
 7 issued from a court of record.

8 (3) A subpoena issued pursuant to this section shall be served in the same manner as if
 9 issued from a court of record, except a subpoena may be served upon any person
 10 holding a license or a certificate of authority from the commissioner~~[executive~~
 11 ~~director]~~ or upon the employee of the person or entity in the same manner as other
 12 orders and notices are served, as provided in KRS 304.2-120.

13 (4) If any individual or licensee refuses to comply with a subpoena or to testify as to
 14 any matter concerning which the individual or licensee~~[he]~~ may be lawfully
 15 interrogated:

16 (a) The Circuit Court of the county wherein the examination, investigation, or
 17 hearing is being conducted or of the county wherein the individual or licensee
 18 resides, on the commissioner's~~[executive director's]~~ application may, after
 19 summary hearing, issue an order requiring the individual or licensee to comply
 20 with the subpoena and to testify; and failure to obey an order may be punished
 21 by the court as a contempt thereof; and

22 (b) The commissioner~~[executive director]~~ may suspend or revoke the certificate
 23 of authority or license of any licensee or impose an administrative fine, or
 24 both, for failure of the licensee or the employee of any licensee to comply.

25 (5) Witness fees and mileage, if claimed, shall be allowed the same as for testimony in
 26 a Circuit Court, but no officer, director, agent or employee of an insurer or person
 27 being examined or investigated shall be entitled to witness or mileage fees.

1 (6) Any individual willfully testifying falsely under oath as to any material to any
 2 examination, investigation, or hearing shall upon conviction thereof be guilty of
 3 perjury.

4 ➔Section 951. KRS 304.2-350 is amended to read as follows:

5 (1) If any person asks to be excused from attending or testifying or from producing any
 6 books, papers, records, contracts, documents, or other evidence in connection with
 7 any examination, hearing, or investigation being conducted by the
 8 commissioner~~[executive director]~~, his or her deputy or examiner, or in any
 9 proceeding or action before any court upon a charge of violation of this code, on the
 10 ground that the testimony or evidence required of the person~~[him]~~ may tend to
 11 incriminate the person~~[him]~~ or subject the person~~[him]~~ to a penalty or forfeiture,
 12 and shall notwithstanding be directed to give testimony or produce evidence, the
 13 person~~[he]~~ must, if so directed by the commissioner~~[executive director]~~ and the
 14 Attorney General, nonetheless comply with the direction; but the person~~[he]~~ shall
 15 not thereafter be prosecuted or subjected to any criminal penalty or forfeiture for or
 16 on account of any transaction, matter, or thing concerning which the person~~[he]~~
 17 may have so testified or produced evidence, and no testimony so given or evidence
 18 produced shall be received against the person~~[him]~~ upon any criminal action,
 19 investigation, or proceeding; except, however, that no person so testifying shall be
 20 exempt from prosecution or punishment for any perjury committed by the
 21 person~~[him]~~ in giving testimony, and the testimony or evidence so given or
 22 produced shall be admissible against the person~~[him]~~ upon any criminal action,
 23 investigation, or proceeding concerning perjury.

24 (2) Any individual may execute, acknowledge, and file in the department~~[office]~~ a
 25 statement expressly waiving immunity or privilege in respect to any transaction,
 26 matter, or thing specified in a statement, and thereupon the testimony of the
 27 individual or the evidence in relation to the transaction, matter, or thing may be

received or produced before any judge, court, tribunal, grand jury, or otherwise, and if so received or produced the individual shall not be entitled to any immunity or privileges on account of any testimony he or she may so give or evidence so produced.

➔ Section 952. KRS 304.2-360 is amended to read as follows:

(1) In the conduct of hearings under this code and making a final order thereon, the commissioner~~[executive director]~~ shall act in a quasijudicial capacity and in accordance with the provisions of this chapter and KRS Chapter 13B.

(2) With respect to hearings held concerning merger, consolidation, bulk reinsurance, conversion, affiliation, or change of control of a domestic insurer as provided in Subtitle 24, or in Subtitle 37 of this chapter, where notice of the hearing was given to all stockholders and policyholders or to all stockholders of an insurer involved, the commissioner~~[executive director]~~ is required to give a copy of the order on hearing to the corporation and insurer parties, to intervening parties, to a reasonable number of stockholders or policyholders as representative of the class, and to other parties only upon written request of such parties.

(3) A final order may require that restitution be made to any person aggrieved by a violation of any provisions of this chapter, any statute administered by the commissioner~~[executive director]~~, or any regulation of the commissioner~~[executive director]~~.

(4) An order prepared by the commissioner's~~[executive director's]~~ designee and approved in writing by the commissioner~~[executive director]~~ shall be considered the commissioner's~~[executive director's]~~ order.

➔ Section 953. KRS 304.2-370 is amended to read as follows:

(1) An appeal from the commissioner~~[executive director]~~ shall be taken only from a final order on hearing and in accordance with KRS Chapter 13B.

(2) The appeal shall be granted as a matter of right, and shall be taken to the Franklin

1 Circuit Court.

2 ➔Section 954. KRS 304.2-400 is amended to read as follows:

3 (1) There is created in the State Treasury a trust fund designated the "Insurance
4 Regulatory Trust Fund" to which shall be credited all payments received under KRS
5 304.4-010.

6 (2) The moneys so received and deposited in the insurance regulatory trust fund shall
7 be appropriated for use only by the department~~{office}~~ to defray the expenses of the
8 department~~{office}~~ in discharge of its administrative and regulatory powers and
9 duties as prescribed by law subject to the applicable laws relating to the
10 appropriation of state funds and to the deposit and expenditure of state moneys. The
11 department~~{office}~~ shall be responsible for the proper expenditure of these moneys
12 as provided by law.

13 ➔Section 955. KRS 304.2-410 is amended to read as follows:

14 (1) It is the responsibility of the department~~{office}~~, which is charged with the
15 administration of the insurance regulatory trust fund, to make such moneys
16 available for investment as fully as is consistent with the cash requirements of the
17 fund and to authorize investment of such moneys by the agency or agencies of the
18 Commonwealth of Kentucky authorized to make investments and reinvestments for
19 and on behalf of any agency of the Commonwealth of Kentucky.

20 (2) Monthly, and more often as circumstances require, the department~~{office}~~ shall
21 notify the investing authority of the amount available for investment, and the
22 moneys shall be invested by the investing authority according to the laws relating to
23 state investments. Such notification shall include the name and number of the fund
24 for which the investments are to be made and the life of the investment if the
25 principal sum is to be required for meeting obligations.

26 ➔Section 956. KRS 304.2-430 is amended to read as follows:

27 Nothing in KRS 304.2-400 to 304.2-420 shall prevent continuing the practice of paying

any of the direct or indirect expenses incurred by the department~~{office}~~, including, but not limited to, those involving salaries, retirement, and Social Security of officers, employees, or representatives of the department~~{office}~~, or any other expenses by appropriations from the general fund. However, the general fund shall be reimbursed for any such payments made on or after July 15, 1986, as well as any money transferred to the insurance regulatory trust fund in connection with the initial funding of the insurance regulatory trust fund, and shall be repaid by transfer from the insurance regulatory trust fund to the general fund no later than the end of the next biennium.

➔Section 957. KRS 304.2-440 is amended to read as follows:

- (1) As used in this section, "insurer" means assessment or cooperative insurers, insurers, fraternal benefit societies, nonprofit hospital, medical-surgical, dental, and health service corporations, health maintenance organizations, and prepaid dental plan organizations.
- (2) If the commissioner~~{executive director}~~ finds that there are insufficient funds for operations of the department~~{office}~~, the commissioner~~{he}~~ may make an assessment on all insurers not to exceed .000235 of net direct written premium from Kentucky as reported in insurers' annual statements for the immediately preceding calendar year. In making each assessment, the commissioner~~{executive director}~~ may establish a minimum assessment. Assessments made pursuant to this section shall be in addition to all other taxes, assessments, and fees.
- (3) Overdue payment of any assessments shall bear interest at the tax interest rate as set forth in KRS 131.010(6) from the date due until paid. Any unpaid assessment may be recovered in an action brought thereon in the name of the department~~{office}~~ in the Franklin Circuit Court or in any other court of appropriate jurisdiction. Such interest penalty is separate from other penalties applicable to violations of KRS Chapter 299 and this chapter and such an action is separate from any other means of collecting an assessment under KRS Chapter 299 or this chapter.

1 (4) All funds derived from assessments made pursuant to this section shall be deposited
 2 in the insurance regulatory trust fund. However, funds derived from assessments
 3 made pursuant to this section shall not lapse to the general fund, but shall at all
 4 times be available to defray expenses of the department~~[office]~~ in discharge of its
 5 administrative and regulatory powers.

6 ➔Section 958. KRS 304.3-070 is amended to read as follows:

7 (1) To qualify for and hold authority to transact insurance in this state, an insurer must
 8 be otherwise in compliance with this code and with its charter powers, and must be
 9 an incorporated stock or mutual insurer, or a combined stock and mutual life
 10 insurer, or a reciprocal insurer, or Lloyd's plan insurer, of the same general type as
 11 may be formed as a domestic insurer under this code, except that:

12 (a) No foreign insurer shall be authorized to transact insurance in this state which
 13 does not maintain reserves as required by Subtitle 6 as applicable to the kind
 14 or kinds of insurance transacted by such insurer, wherever transacted in the
 15 United States; or which transacts business anywhere in the United States on
 16 the assessment plan, or stipulated premium plan, or any similar plan.

17 (b) No insurer shall be authorized to transact a kind of insurance in this state
 18 unless duly authorized or qualified to transact such insurance in the state or
 19 country of its domicile.

20 (c) No insurer shall be authorized to transact in this state any kind of insurance
 21 which is not within the definition as set forth in Subtitle 5.

22 (d) No such authority shall be granted or continued as to any insurer while in
 23 arrears to the state for fees, licenses, taxes, assessments, fines or penalties
 24 accrued on business previously transacted in this state.

25 (e) A combined stock and mutual life insurer must maintain separate accounting
 26 for income, expenses, assets, liabilities and surplus funds allocated between
 27 the "mutual" branch and the "stock" branch, in a manner as provided by a

1 regulation to be promulgated by the commissioner~~[executive director]~~. The
 2 "mutual" branch shall not invest any moneys in equity securities of the "stock"
 3 branch, nor shall it loan any moneys to the "stock" branch. The "stock" branch
 4 shall not loan any moneys to the "mutual" branch.

5 (f) A life insurer in forming the "stock" branch or the "mutual" branch of a
 6 combined stock and mutual life insurer, must possess the capital funds
 7 required pursuant to KRS 304.3-120 for the stock branch, and must possess
 8 the surplus funds required under KRS 304.24-100 for the mutual branch. The
 9 commissioner~~[executive director of insurance]~~ shall not grant a certificate of
 10 authority to any life insurer to conduct its business as a combination stock and
 11 mutual life insurer, unless the aforesaid capitalization requirements are
 12 fulfilled.

13 (2) In determining the solvency of or impairment to any foreign or alien insurer which
 14 is requesting the issuance or continuance of any certificate of authority to do
 15 business in this state, the commissioner~~[executive director]~~ may admit as assets
 16 only those items which would qualify as admitted assets for a domestic insurer
 17 similarly situated.

18 ➔Section 959. KRS 304.3-080 is amended to read as follows:

19 (1) No certificate of authority or license to transact any kind of insurance business in
 20 this state shall be issued, renewed or continued in effect to any domestic, foreign, or
 21 alien insurance company or other insurance entity which is owned, or financially
 22 controlled in whole or in part by any state of the United States, or by a foreign
 23 government or by any political subdivision of either, or which is an agency of such
 24 state, government or political subdivision, unless such company or entity was so
 25 owned, controlled or constituted prior to January 1, 1957, and was authorized to do
 26 business in this state on or prior to January 1, 1957.

27 (2) The commissioner~~[executive director]~~ shall not grant or continue authority to

1 transact insurance in this state to any insurer or proposed insurer after a hearing held
2 thereon, if it appears that:

3 (a) Any director, officer or other individual materially part of the management is
4 found by the commissioner[him] after investigation or upon reliable
5 information to be incompetent, or dishonest, or untrustworthy, or of
6 unfavorable business repute; or

7 (b) The managers are so lacking in insurance company managerial experience in
8 operations of the kind proposed in this state as to make such operation,
9 currently or prospectively, hazardous to or contrary to the best interests of the
10 insurance-buying or investing public of this state; or

11 (c) The commissioner[He] has good reason to believe it is affiliated directly or
12 indirectly through ownership, control, management, reinsurance transactions
13 or other business relations with any person or persons of unfavorable business
14 repute; or

15 (d) Its business operations are or have been marked, to the injury of insurers,
16 stockholders, policyholders, creditors or the public, by illegality, or by
17 manipulation of assets, or of accounts, or of reinsurance, or by bad faith.

18 ➔Section 960. KRS 304.3-090 is amended to read as follows:

19 No foreign insurer shall be authorized to transact insurance in Kentucky, which has not
20 been issuing its own policies as an authorized insurer for at least three (3) years in its state
21 or country of domicile, unless the insurer is otherwise qualified for a certificate of
22 authority under this code and is:

23 (1) The wholly owned subsidiary as defined in KRS 304.37-010(6) of an insurer which
24 is already an authorized insurer in Kentucky; or

25 (2) The successor in interest through statutory merger or statutory consolidation, or
26 through bulk reinsurance of substantially all of the insurance risks in this state, of an
27 authorized insurer; or

1 (3) An insurer organized solely for the purpose of insuring against earthquake, flood,
 2 nuclear radiation, war or other special hazards to property or liability for which, in
 3 the opinion of the commissioner~~[executive director]~~, adequate provision is not
 4 made by insurers already authorized in this state.

5 ➔Section 961. KRS 304.3-100 is amended to read as follows:

6 (1) No insurer shall be formed or authorized to transact insurance in this state which
 7 has or uses a name which is the same as or deceptively similar to that of another
 8 insurer already so authorized, without the written consent of such other insurer.

9 (2) No life insurer shall be so authorized which has or uses a name deceptively similar
 10 to that of another insurer authorized to transact insurance in this state within the
 11 preceding ten (10) years if life insurance policies originally issued by such other
 12 insurer are still outstanding in this state, without the written consent of such insurer.

13 (3) No insurer shall be formed or authorized to transact insurance in this state which
 14 has or uses a name the same as or deceptively similar to the name of any foreign
 15 insurer not so authorized if such foreign insurer has within the next preceding
 16 twelve (12) months signified its intention to secure an incorporation in this state
 17 under such name, or to do business as a foreign insurer in this state under such
 18 name, by filing notice of such intention with the commissioner~~[executive director]~~,
 19 unless the written consent to the use of such name or deceptively similar name has
 20 been given by such foreign insurer.

21 (4) No foreign insurer seeking admission to this state shall be authorized to transact
 22 insurance in this state which has or uses a name the same as or deceptively similar
 23 to that of a domestic corporation which has been incorporated as an insurer but has
 24 not yet secured a certificate of authority, until the expiration of three (3) years from
 25 the date of incorporation of such domestic corporation.

26 (5) No insurer shall be so authorized which has or uses a name which tends to deceive
 27 or mislead as to the type of organization of the insurer.

1 (6) In case of conflict of names between two (2) insurers, or a conflict otherwise
 2 prohibited under this section, the commissioner~~[executive director]~~ may, after
 3 notice to the other insurer, permit (or may require as a condition to the issuance of
 4 an original certificate of authority to an applicant insurer) the insurer to use in this
 5 state such supplementation or modification of its name or such business name as
 6 may reasonably be necessary to avoid the conflict.

7 (7) Except as provided in subsection (6) of this section, an insurer shall conduct its
 8 business in the name under which the certificate of authority was issued.

9 ➔Section 962. KRS 304.3-110 is amended to read as follows:

10 An insurer which otherwise qualifies therefor may be authorized to transact any one (1)
 11 kind or any combination of kinds of insurance as defined in Subtitle 5, except:

12 (1) A life insurer may grant annuities and may be authorized to transact in addition only
 13 health insurance; except, that the commissioner~~[executive director]~~ may, if the
 14 insurer otherwise qualifies therefor, continue so to authorize any life insurer which
 15 immediately prior to June 18, 1970, was lawfully authorized to transact in this state
 16 a kind or kinds of insurance in addition to life and health and annuities. Only an
 17 insurer with a certificate of authority authorized to sell life insurance may grant and
 18 issue annuity contracts.

19 (2) A reciprocal or Lloyd's insurer shall not transact life insurance.

20 (3) A title insurer shall be a stock insurer, and shall not transact any other kind of
 21 insurance.

22 (4) A mortgage guaranty insurer shall be a stock insurer, and shall not transact any
 23 other kind of insurance.

24 ➔Section 963. KRS 304.3-120 is amended to read as follows:

25 (1) Except as provided in subsection (2) of this section, to qualify for authority to
 26 transact insurance (as defined in Subtitle 5), an insurer shall possess and thereafter
 27 maintain unimpaired paid-in capital stock (if a stock insurer) or unimpaired basic

surplus (if a foreign mutual, reciprocal, or Lloyd's insurer), and when first so authorized shall possess initial free surplus, all in amounts not less than as determined from the following table:

Stock Insurers		Foreign Mutual, Reciprocal, and Lloyd's Insurers	
Minimum		Minimum	
Required	Initial	Required	Initial
Capital	Free	Basic	Free
Stock	Surplus	Surplus	Surplus
\$1,000,000	\$2,000,000	\$1,000,000	\$2,000,000

- (2) An insurer holding a valid certificate of authority to transact insurance in this state immediately prior to July 15, 1982, may, if otherwise qualified therefor, continue to be so authorized while possessing paid-in capital stock (if a stock insurer) or surplus (if a mutual, reciprocal, or Lloyd's insurer) as required for such authority immediately prior to July 15, 1982. The commissioner~~executive director~~ shall not authorize such an insurer to transact any other kinds of insurance unless it then complies with the requirements as to capital and surplus. Notwithstanding the other provisions hereof, the exception provided in this subsection (2) shall cease to apply to any such insurer from and after the date upon which it has accumulated surplus in an amount equal to two hundred percent (200%) of the initial free surplus (if a stock or foreign mutual, reciprocal, or Lloyd's insurer) or the surplus (if a domestic mutual insurer) required under other provisions of this code to qualify for authority to transact the kind or kinds of insurance being transacted by it.
- (3) Each insurer shall at all times maintain bona fide additional surplus in the amount of two hundred fifty thousand dollars (\$250,000). Insurers holding a valid certificate of authority to transact insurance in this state immediately prior to July 13, 1984,

1 may, if otherwise qualified therefor, continue to be so authorized while possessing
2 additional surplus as required for such authority immediately prior to July 13, 1984.

3 The commissioner~~[executive director]~~ shall not authorize such an insurer to transact
4 any other kinds of insurance unless it complies with this subsection. The exception
5 provided in this subsection shall cease to apply to any insurer from and after the
6 date upon which it has accumulated additional surplus equal to or in excess of the
7 additional surplus required by this subsection.

8 (4) As to surplus required for authority to transact one (1) or more kinds of insurance
9 and thereafter to be maintained, domestic mutual legal reserve insurers hereafter
10 formed shall be governed by Subtitle 24 of this chapter.

11 ➔Section 964. KRS 304.3-125 is amended to read as follows:

12 The commissioner~~[executive director]~~ is hereby granted authority to adopt administrative
13 regulations, up to the standards prescribed by the National Association of Insurance
14 Commissioners, covering requirements for additional capital and surplus based on the
15 kind, type, volume, and nature of insurance business transacted, if and when any
16 regulations are promulgated and adopted by the National Association of Insurance
17 Commissioners as its model regulation on the subject and as a requirement for
18 departmental certification by the association.

19 ➔Section 965. KRS 304.3-140 is amended to read as follows:

20 (1) The commissioner~~[executive director]~~ shall not authorize an insurer to transact
21 insurance in this state, other than an alien insurer or a title insurer, unless it makes
22 and thereafter continuously maintains on deposit in this state, through the
23 commissioner~~[executive director]~~, cash or securities eligible for such deposit under
24 the laws of this state, of a fair market value not less than its minimum required
25 capital stock (if a stock insurer) or minimum required basic surplus (if a mutual,
26 reciprocal, or Lloyd's plan insurer), for the protection of the insurer's policyholders
27 or its policyholders and creditors.

- 1 (2) The commissioner~~[executive director]~~ shall not so authorize a title insurer unless it
 2 so deposits and maintains such cash or securities of a fair market value not less than
 3 its minimum required capital stock as a guaranty fund which shall be held as
 4 security for the faithful performance by the insurer of all its undertakings and
 5 liabilities under its title policies or other guarantees of title to property.
- 6 (3) The commissioner~~[executive director]~~ shall not authorize an alien insurer unless it
 7 so makes and thereafter continuously maintains such a deposit, representing funds
 8 in excess of all the insurer's liabilities under insurance contracts in force in the
 9 United States of a fair market value of not less than that required under subsection
 10 (1) of this section, as to a like foreign insurer. The deposit shall be held in trust for
 11 the protection of the insurer's policyholders, or its policyholders and creditors, in the
 12 United States.
- 13 (4) In lieu of such a deposit made or maintained in this state, the
 14 commissioner~~[executive director]~~ may, in his or her discretion, accept the
 15 certificate in proper form of the public officer having general supervision of
 16 insurers in any other state to the effect that a deposit of like quality and amount, or
 17 part thereof, by such insurer is being maintained for like purposes in public custody
 18 or control pursuant to the laws of such state.
- 19 (5) All such deposits in this state are subject to the applicable provisions of Subtitle 8.
- 20 ➔Section 966. KRS 304.3-150 is amended to read as follows:
- 21 To apply for an original certificate of authority an insurer shall file with the
 22 commissioner~~[executive director]~~ its written application therefor on forms as prescribed
 23 and furnished by the commissioner~~[executive director]~~, accompanied by the applicable
 24 fees specified in Subtitle 4, stating under the oath of the president or vice-president or
 25 other chief officer and the secretary of the insurer, or of the attorney-in-fact (if a
 26 reciprocal insurer or Lloyd's plan insurer), the insurer's name, location of its principal
 27 office, the kinds of insurance to be transacted, date of organization or incorporation, form

1 of organization, its domicile, and any additional information as the
 2 commissioner~~[executive director]~~ may reasonably require, together with the following
 3 documents, as applicable:

4 (1) If a corporation, a copy of its charter, together with all amendments thereto, or as
 5 restated and amended under the laws of its state or country of incorporation,
 6 currently certified by the public official with whom the originals are on file in a
 7 state or country.

8 (2) A copy of its bylaws, certified by the insurer's secretary.

9 (3) If a reciprocal insurer, a copy of the power of attorney of its attorney-in-fact, and
 10 copy of its subscribers agreement, if any, both certified by the attorney-in-fact; and
 11 if a domestic reciprocal insurer, the declaration provided for in KRS 304.27-060.

12 (4) If a Lloyd's plan insurer, the names and addresses of all of the underwriters
 13 proposing to engage in the business, along with the number of underwriters which
 14 shall not be less than twenty-five (25), and that each underwriter is worth in his or
 15 her own right not less than twenty thousand dollars (\$20,000) over and above all his
 16 or her liabilities, along with a statement showing a list of all cash and invested
 17 assets owned by the associated underwriters and their value, certified and sworn to
 18 by their duly authorized attorney-in-fact.

19 (5) A complete copy of its financial statement as of not earlier than the December 31
 20 next preceding in form as customarily used in the United States by like insurers,
 21 sworn to by at least two (2) executive officers of the insurer or certified by the
 22 public insurance supervisory official of the insurer's state or country of domicile.

23 (6) A copy of the report of last examination of the insurer prior to the filing of the
 24 application, certified by the public insurance supervisory official of the insurer's
 25 state or country of domicile.

26 (7) If a foreign or alien insurer, the name and address of the person to whom the
 27 Secretary of State shall forward lawful process served upon him or her. If a

domestic reciprocal insurer, the name and address of the attorney designated pursuant to paragraph (e) of subsection (2) of KRS 304.27-060 shall be deemed to be the person to whom the Secretary of State shall forward lawful process served upon him or her. Any judgment against a domestic reciprocal so served shall be binding upon each of the insurer's subscribers as their respective contingent liabilities.

(8) If a foreign or alien insurer, a certificate of the public insurance supervisory official of its state or country of domicile showing that it is authorized or qualified for authority to transact in a state or country the kinds of insurance proposed to be transacted in this state.

(9) If an alien insurer, a certificate as to deposit, if to be tendered pursuant to subsection (4) of KRS 304.3-140, and a copy of the trust deed, if any, pertaining to a deposit, certified by the trustee.

(10) If a foreign insurer, a certificate as to deposit, if to be tendered pursuant to subsection (4) of KRS 304.3-140.

(11) If an alien insurer, a copy of the appointment and authority of its United States manager, certified by its officer having custody of its records.

(12) Designation by the insurer of its officers or representatives authorized to appoint and remove its agents in this state.

(13) If to transact surety insurance, the names and addresses of all its attorneys in fact within this state together with the scope of authority of each attorney-in-fact.

→Section 967. KRS 304.3-160 is amended to read as follows:

(1) If upon completion of its application the commissioner~~[executive-director]~~ finds that the insurer has met the requirements therefor under this code, including KRS 304.3-080, the commissioner~~[executive-director]~~ may, if he or she deems it advisable, issue to the insurer a certificate of authority; otherwise, the commissioner~~[executive-director]~~ shall issue an~~[his]~~ order refusing such certificate.

1 (2) The certificate of authority, if issued, shall state the insurer's name, the address of its
 2 principal office, the state or country of its organization, and the kinds of insurance
 3 the insurer is authorized to transact in this state. At the insurer's request, the
 4 commissioner~~[executive director]~~ may issue a certificate of authority limited to
 5 particular types of insurance or coverages within a kind of insurance as defined in
 6 Subtitle 5.

7 (3) Although issued and delivered to the insurer, the certificate of authority at all times
 8 shall be the property of the State of Kentucky. Upon any expiration, suspension, or
 9 termination thereof the insurer shall promptly deliver the certificate to the
 10 commissioner~~[executive director]~~.

11 ➔Section 968. KRS 304.3-170 is amended to read as follows:

12 Upon written application therefor by the insurer and due cause shown, the
 13 commissioner~~[executive director]~~ may amend the certificate of authority of an insurer as
 14 required by change of name or to show any change in the kinds of insurance the insurer
 15 may thereafter transact and is qualified to transact in this state. The insurer shall
 16 accompany such request with the fee for amendment as specified in Subtitle 4.

17 ➔Section 969. KRS 304.3-180 is amended to read as follows:

18 (1) A certificate of authority shall continue in force as long as the insurer is entitled
 19 thereto under this code, and until suspended or revoked by the
 20 commissioner~~[executive director]~~ or terminated at the insurer's request; subject,
 21 however, to continuance of the certificate by the insurer each year by:

- 22 (a) Payment of the continuation fee provided in Subtitle 4 by March 1, or, if paid
 23 by mail, postmarked no later than March 1;
- 24 (b) Due filing by the insurer of its annual statement for the next preceding
 25 calendar year as required by KRS 304.3-240;
- 26 (c) Payment by the insurer of premium taxes with respect to the preceding
 27 calendar year; and

(d) Due filing by domestic companies of quarterly statements as approved by the National Association of Insurance Commissioners.

(2) If not so continued by the insurer, its certificate of authority shall expire at midnight on the June 30 next following the failure of the insurer to continue it in force, unless earlier revoked for failure to pay taxes as provided in KRS 304.4-040. The commissioner~~[executive director]~~ shall promptly notify the insurer of the occurrence of any failure resulting in impending expiration of its certificate of authority.

(3) The commissioner~~[executive director]~~ may, in his or her discretion, upon the insurer's request made within three (3) months after expiration, reinstate a certificate of authority which the insurer has inadvertently permitted to expire, after the insurer has fully cured all its failures which resulted in the expiration. Otherwise the insurer shall be granted another certificate of authority only after filing application therefor and meeting all other requirements as for an original certificate of authority in this state.

(4) An insurer shall not use the same accountant or partner of an accounting firm responsible for preparing the audited financial statement for more than seven (7) consecutive years.

→ Section 970. KRS 304.3-190 is amended to read as follows:

(1) The commissioner~~[executive director]~~ shall refuse to continue or shall suspend or revoke an insurer's certificate of authority:

(a) If the action is required by any provision of this code; or

(b) If a foreign or alien insurer and it no longer meets the requirements for a certificate of authority, as required for domestic insurers, on account of deficiency of capital or surplus or otherwise; or

(c) If a domestic insurer and it has failed to cure an impairment of capital, if a stock insurer, or minimum required surplus, if other than a stock insurer,

1 within the time allowed therefor by the commissioner~~[executive director]~~
 2 under this code or is otherwise no longer qualified for the certificate of
 3 authority; or

4 (d) If the insurer's certificate of authority to transact insurance therein is
 5 suspended or revoked by its state or country of domicile.

6 (2) Except in case of insolvency or impairment of required capital or surplus, or
 7 suspension or revocation by another state or country as referred to in paragraph (d)
 8 of subsection (1) of this section, the commissioner~~[executive director]~~ shall give the
 9 insurer at least twenty (20) days notice in advance of any refusal, suspension, or
 10 revocation under this section, and of the particulars of the reasons therefor. If the
 11 insurer requests a hearing thereon within the twenty (20) days, a hearing shall be
 12 conducted in accordance with KRS Chapter 13B, and the request shall
 13 automatically stay the commissioner's~~[executive director's]~~ proposed action until
 14 his or her final order is made on the hearing.

15 ➔Section 971. KRS 304.3-200 is amended to read as follows:

16 (1) The commissioner~~[executive director]~~ may, in his or her discretion, refuse to
 17 continue or may suspend or revoke an insurer's certificate of authority if he or she
 18 finds after a hearing thereon, or upon waiver of hearing by the insurer, that the
 19 insurer has:

20 (a) Willfully violated or willfully failed to comply with any lawful order of the
 21 commissioner~~[executive director]~~; or

22 (b) Willfully violated or willfully failed to comply with any lawful regulation of
 23 the commissioner~~[executive director]~~; or

24 (c) Willfully violated any provision of this code other than those for violation of
 25 which suspension or revocation is mandatory; or

26 (d) Failed to pay taxes on its premiums as required by law; or

27 (e) Has committed any unfair claims settlement practice as defined in Subtitle 12

1 or regulations promulgated thereunder.

2 In lieu of or in addition to such suspension or revocation, the
3 commissioner~~[executive director]~~ may, in his or her discretion, reprimand the
4 insurer, which shall be made a part of the insurer's record, or may levy upon the
5 insurer, and the insurer shall pay forthwith, an administrative fine as specified in
6 KRS 304.99-020.

7 (2) The commissioner~~[executive director]~~ shall suspend or revoke an insurer's
8 certificate of authority on any of the following grounds, if he or she finds after a
9 hearing thereon that the insurer:

10 (a) Is in unsound condition, or is being fraudulently conducted, or is in such
11 condition or using such methods and practices in the conduct of its business as
12 to render its further transaction of insurance in this state currently or
13 prospectively hazardous or injurious to policyholders or to the public.

14 (b) With such frequency as to indicate its general business practice in this state:

15 1. Has without just cause failed to pay, or delayed payment of, claims
16 arising under its policies, whether the claim is in favor of an insured or
17 is in favor of a third person with respect to the liability of an insured to
18 such third person; or

19 2. Without just cause compels insureds or claimants to accept less than the
20 amount due them or to employ attorneys or to bring suit against the
21 insurer or such an insured to secure full payment or settlement of such
22 claims.

23 (c) Refuses to be examined, or if its directors, officers, employees or
24 representatives refuse to submit to examination relative to its affairs, or to
25 produce its accounts, records and files for examination by the
26 commissioner~~[executive director]~~ when required, or refuse to perform any
27 legal obligation relative to the examination.

- 1 (d) Has failed to pay any final judgment rendered against it in this state upon any
 2 policy, bond, recognizance or undertaking as issued or guaranteed by it, within
 3 thirty (30) days after the judgment became final or within thirty (30) days after
 4 dismissal of an appeal before final determination, whichever date is the later.
- 5 (e) Has actual knowledge by the chief executive officer or person in charge of
 6 Kentucky operations that an agent employed by the insurer has engaged or is
 7 engaging in conduct in violation of this code and the insurer has failed to
 8 report such conduct to the department~~[office]~~.
- 9 (f) No insurer, its agents, servants, or employees shall incur any liability in
 10 connection with or as a result of any disclosure made to the
 11 commissioner~~[executive-director]~~ of insurance pursuant to the provisions of
 12 this section.
- 13 (3) The commissioner~~[executive-director]~~ may, in his or her discretion and without
 14 advance notice or a hearing thereon, immediately suspend the certificate of
 15 authority of any insurer as to which proceedings for receivership, conservatorship,
 16 rehabilitation or other delinquency proceedings have been commenced in any state
 17 by the public insurance supervisory officer of such state.
- 18 ➔Section 972. KRS 304.3-210 is amended to read as follows:
- 19 (1) All suspensions or revocations of, or refusal to continue, an insurer's certificate of
 20 authority shall be by the commissioner's~~[executive-director's]~~ order given to the
 21 insurer.
- 22 (2) Upon issuance of the order, the commissioner~~[executive-director]~~ shall forthwith
 23 give notice thereof to the insurer's agents in this state of record in the
 24 department~~[office]~~, and shall likewise suspend or revoke the authority of such
 25 agents to represent the insurer.
- 26 (3) In his or her discretion, the commissioner~~[executive-director]~~ may likewise publish
 27 notice of such suspension, revocation or refusal in one (1) or more newspapers of

1 general circulation in the state.

2 ➔Section 973. KRS 304.3-220 is amended to read as follows:

3 (1) Suspension of an insurer's certificate of authority shall be for such period as the
4 commissioner~~[executive director]~~ specifies in the order of suspension, but not to
5 exceed one (1) year. During the suspension the commissioner~~[executive director]~~
6 may rescind or shorten the suspension by his or her further order.

7 (2) During the suspension period the insurer shall not solicit or write any new business
8 in this state, but shall file its annual statement, pay fees, licenses, and taxes as
9 required, and may service its business already in force in this state, as if the
10 certificate of authority had continued in full force.

11 (3) Upon expiration of the suspension period, if within such period the certificate of
12 authority has not terminated, the insurer's certificate of authority shall be
13 automatically reinstated unless the commissioner~~[executive director]~~ finds that the
14 causes of the suspension have not terminated, or that the insurer is otherwise not in
15 compliance with the requirements of this code, and of which the
16 commissioner~~[executive director]~~ shall give the insurer notice not less than thirty
17 (30) days in advance of the expiration of the suspension period. If not so
18 automatically reinstated the certificate of authority shall be deemed to have
19 terminated as of the end of the suspension period.

20 (4) Upon reinstatement of the insurer's certificate of authority, the authority of its
21 agents in this state to represent the insurer shall likewise be reinstated. The
22 commissioner~~[executive director]~~ shall promptly notify the insurer and its agents in
23 this state of record in the department~~[office]~~, of such reinstatement. If pursuant to
24 subsection (3) of KRS 304.3-210, the commissioner~~[executive director]~~ has
25 published notice of such suspension he or she shall in like manner publish notice of
26 the reinstatement.

27 ➔Section 974. KRS 304.3-240 is amended to read as follows:

- 1 (1) Each authorized insurer shall annually file with the commissioner~~[executive~~
2 ~~director]~~ a true statement of its financial condition, transactions, and affairs as of
3 December 31 preceding. The statement shall be on forms prescribed by the National
4 Association of Insurance Commissioners and shall be completed according to the
5 instructions of the National Association of Insurance Commissioners, and shall be
6 verified by the oaths of at least two (2) of the insurer's principal officers. The annual
7 statement of a reciprocal insurer shall be made and verified by its attorney-in-fact.
8 The annual statement shall be filed by March 1 of each year, or, if filed by mail,
9 postmarked no later than March 1. The annual statement of a foreign or alien insurer
10 may be executed or verified by facsimile or reproduced signature; however, the
11 annual statement of a domestic insurer shall contain original signatures.
- 12 (2) The statement forms shall be in general form and context as approved by the
13 National Association of Insurance Commissioners for the kinds of insurance to be
14 reported upon, and as supplemented for additional information required by the
15 commissioner~~[executive director]~~.
- 16 (3) The annual statement of an alien insurer shall relate only to its assets, transactions,
17 and affairs in the United States unless the commissioner~~[executive director]~~
18 requires otherwise. The statement shall be verified by the insurer's United States
19 manager or by its officers duly authorized.
- 20 (4) The commissioner~~[executive director]~~ may suspend or revoke the authority of any
21 insurer failing to file its annual and quarterly statement when due or failing so to file
22 during any extension of time therefor which the commissioner~~[executive director]~~,
23 for good cause, may grant.
- 24 (5) Notwithstanding the provisions of this section or any other law of this
25 Commonwealth, an authorized insurer may, subject to the requirements of
26 regulations adopted by the commissioner~~[executive director]~~, publish financial
27 statements or information based on financial statements prepared on a basis which

1 is in accordance with requirements of a competent authority and which differs from
 2 the basis of the statements which have been filed with the commissioner~~executive~~
 3 ~~director~~ in compliance with this section. Such differing financial statements or
 4 information based on the financial statements shall not be made the basis for the
 5 application of any provision of this chapter not relating solely to the publication of
 6 financial information unless the provision specifically so requires.

7 ➔Section 975. KRS 304.3-242 is amended to read as follows:

- 8 (1) As used in this section, a "qualified loss reserve specialist" means a person who is
 9 not a director, principal, or direct or indirect owner of an insurer and is a member in
 10 good standing of the Casualty Actuarial Society, and the American Academy of
 11 Actuaries, and who has been approved as qualified for signing casualty loss reserve
 12 opinions by the Casualty Practice Council of the American Academy of Actuaries,
 13 or has other experience acceptable to the commissioner~~executive director~~ to
 14 assure a professional opinion on the adequacy of loss and loss adjustment expense
 15 reserves.
- 16 (2) The board of directors of every insurer authorized to transact property or casualty
 17 insurance and required to file an annual statement with the commissioner~~executive~~
 18 ~~director~~ pursuant to KRS 304.3-240 shall engage a qualified loss reserve specialist
 19 to certify the adequacy of the insurer's loss and loss adjustment expense reserves.
 20 The report shall be filed with the annual statement required by KRS 304.3-240.
- 21 (3) The statement of opinion required by this section shall consist of at least the
 22 following information:
- 23 (a) Identification of the qualified loss reserve specialist;
 - 24 (b) Identification of the subjects on which the opinion is to be expressed and a
 25 description of the scope of the qualified loss reserve specialist's work;
 - 26 (c) An expression of the qualified loss reserve specialist's opinion with respect to
 27 the subjects required to be described in paragraph (b) of this subsection; and

(d) Additional information which the qualified loss reserve specialist considers necessary to state a qualification of opinion or to explain any aspect of the annual statement which is not already sufficiently explained in the annual statement.

(4) It shall not be necessary to file the report required by this section in the following instances:

(a) An insurer that has less than one million dollars (\$1,000,000) total direct plus assumed written premiums during a calendar year, or that has less than one thousand (1,000) policyholders or certificate holders at the end of a calendar year. An insurer which intends to utilize this exemption shall submit a letter of intent to the insurance regulatory official in its domiciliary state no later than December 1 of the calendar year for which the exemption is to be claimed;

(b) An insurer which is under rehabilitation, liquidation, or any other delinquency proceeding ordered pursuant to a statutory provision, unless ordered to make the report by the insurance regulatory official in its domiciliary state;

(c) An insurer writing property insurance only if the exemption is agreed to by the insurance regulatory official in the insurer's domiciliary state; or

(d) Filing the report would constitute financial hardship, which is presumed to exist if the projected reasonable cost of the report would exceed the lesser of:

1. One percent (1%) of the insurer's capital and surplus reflected in the insurer's annual statement for the calendar year for which the exemption is sought; or

2. Three percent (3%) of the insurer's net direct plus assumed premiums written during the calendar year for which the exemption is sought as reflected in the insurer's annual statement filed with the insurance regulator official in its domiciliary state.

→Section 976. KRS 304.3-270 is amended to read as follows:

- 1 (1) The purpose of this section is to aid in the protection of insurers formed under the
2 laws of Kentucky and transacting insurance in other states or countries against
3 discriminatory or onerous requirements under the laws of such states or countries or
4 the administration thereof.
- 5 (2) When by or pursuant to the laws of any other state or foreign country or province
6 any taxes, licenses and other fees, in the aggregate, and any fines, penalties, deposit
7 requirements or other material obligations, prohibitions or restrictions are or would
8 be imposed upon Kentucky insurers, or upon the agents or representatives of such
9 insurers, which are in excess of such taxes, licenses and other fees, in the aggregate,
10 or which are in excess of the fines, penalties, deposit requirements or other
11 obligations, prohibitions, or restrictions directly imposed upon similar insurers, or
12 upon the agents or representatives of such insurers, of such other state or country
13 under the statutes of this state, so long as such laws of such other state or country
14 continue in force or are so applied, the same taxes, licenses and other fees, in the
15 aggregate, or fines, penalties, or deposit requirements or other material obligations,
16 prohibitions, or restrictions of whatever kind shall be imposed by the
17 commissioner~~executive director~~ upon the insurers, or upon the agents or
18 representatives of such insurers, of such other state or country doing business or
19 seeking to do business in Kentucky. Any tax, license or other fee or other obligation
20 imposed by any city, county, or other political subdivision or agency of such other
21 state or country on Kentucky insurers or their agents or representatives shall be
22 deemed to be imposed by such state or country within the meaning of this section.
- 23 (3) This section shall not apply as to personal income taxes, nor as to ad valorem taxes
24 on real or personal property, nor as to special purpose obligations or assessments
25 imposed by another state in connection with particular kinds of insurance other than
26 property insurance; except that deductions, from premium taxes or other taxes
27 otherwise payable, allowed on account of real estate or personal property taxes paid

shall be taken into consideration by the commissioner~~[executive-director]~~ in determining the propriety and extent of retaliatory action under this section.

(4) For the purposes of this section the domicile of an alien insurer, other than insurers formed under the laws of Canada, or a province thereof, shall be that state designated by the insurer in writing filed with the commissioner~~[executive-director]~~ at time of admission to this state or within six (6) months after the effective date of this code, whichever date is the later, and may be any one (1) of the following states:

(a) That in which the insurer was first authorized to transact insurance;

(b) That in which is located the insurer's principal office;

(c) That in which is held the largest deposit of trusteed assets of the insurer for the protection of its policyholders in the United States.

If the insurer makes no such designation its domicile shall be deemed to be that state in which is located its principal office.

(5) For the purpose of this section assessments by insurance guaranty associations or similar organizations in any other state shall not be considered or used in determining retaliatory taxation to be imposed by the commissioner~~[executive-director]~~ upon insurers doing business in this state that are incorporated or organized under the laws of such other state, or upon their agents.

→Section 977. KRS 304.3-320 is amended to read as follows:

(1) Foreign insurers currently admitted to do the business of life and health insurance in Kentucky and foreign insurers hereafter admitted to do the business of life and health insurance in Kentucky which are domiciled in states which have no life and health insurance guaranty association or similar guaranty fund in operation may be required by the commissioner~~[executive-director]~~, in order to protect Kentucky policyholders, to furnish to the commissioner~~[executive-director]~~ a deposit of cash or publicly-traded securities having a market value of not less than one hundred

1 thousand dollars (\$100,000) nor more than one million dollars (\$1,000,000).

2 (2) In establishing the amount of the deposit required by subsection (1) of this section
3 for a particular insurer, the commissioner~~[executive director]~~ shall consider the
4 following factors:

5 (a) The amount of Kentucky writings;

6 (b) The amount of policy reserves and claim reserves pertaining to Kentucky
7 risks;

8 (c) The kind of insurance written in Kentucky;

9 (d) The current financial and operating test results of the insurer provided by the
10 National Association of Insurance Commissioners under its insurance
11 regulatory information system; and

12 (e) Any other relevant financial data.

13 ➔Section 978. KRS 304.3-400 is amended to read as follows:

14 As used in KRS 304.3-400 to 304.3-430, unless the context requires otherwise:

15 (1) "Accredited state" means a state in which the insurance regulatory agency has
16 qualified as meeting the minimum financial regulatory standards promulgated and
17 established from time to time by the National Association of Insurance
18 Commissioners.

19 (2) "Control" or "controlled" has the meaning set forth in KRS 304.37-010(8).

20 (3) "Controlled insurer" means an authorized insurer which is controlled, directly or
21 indirectly, by a producer.

22 (4) "Controlling producer" means a producer who directly or indirectly, controls an
23 insurer.

24 (5) "Authorized insurer" or "insurer" means an insurer holding a certificate of authority
25 from the commissioner~~[executive director]~~ to transact property or casualty
26 insurance business in Kentucky. The following, among others, are not authorized
27 insurers for the purposes of KRS 304.3-400 to 304.3-430:

- 1 (a) All risk retention groups as defined in the Superfund Amendments
 2 Reauthorization Act of 1986, (P.L. 99-499, 100 Stat. 1613, and the Liability
 3 Risk Retention Act, 15 U.S.C. secs. 3901 et seq.) and Subtitle 45 of this
 4 chapter;
- 5 (b) All residual market mechanisms and joint underwriting authorities or
 6 associations; and
- 7 (c) All captive insurers, that is, insurers owned by another organization whose
 8 exclusive purpose is to insure risks of the parent organization and affiliated
 9 companies or, in the case of groups and associations, insurance organizations
 10 owned by the insureds whose exclusive purpose is to insure risks to member
 11 organizations or group members and their affiliates.
- 12 (6) "Producer" means a person, firm, association, or corporation, when, for any
 13 compensation, commission, or other thing of value, the person, firm, association, or
 14 corporation acts or aids in any manner in soliciting, negotiating, or procuring the
 15 making of any insurance contract on behalf of an insured other than the person,
 16 firm, association, or corporation.
- 17 ➔Section 979. KRS 304.3-410 is amended to read as follows:
- 18 (1) The applicability of this section is as follows:
- 19 (a) The provisions of this section shall only apply if in any calendar year, the
 20 aggregate amount of gross written premium on business placed with a
 21 controlled insurer by a controlling producer is equal to or greater than five
 22 percent (5%) of the admitted assets of the controlled insurer, as reported in the
 23 controlled insurer's quarterly statement filed as of September 30 of the
 24 immediate preceding year.
- 25 (b) Notwithstanding paragraph (a) of this subsection, the provisions of this
 26 section shall not apply if:
- 27 1. The controlling producer:

- 1 a. Places insurance only with the controlled insurer, or only with the
- 2 controlled insurer and a member or members of the controlled
- 3 insurer's holding company system, or the controlled insurer's
- 4 parent, affiliate, or subsidiary and receives no compensation based
- 5 upon the amount of premiums written in connection with the
- 6 insurance; and
- 7 b. Accepts insurance placements only from nonaffiliated
- 8 subproducers, and not directly from insureds; and
- 9 2. The controlled insurer, except for insurance business written through a
- 10 residual market mechanism, accepts insurance business only from a
- 11 controlling producer, a producer controlled by the controlled insurer, or
- 12 a producer that is a subsidiary of the controlled insurer.
- 13 (2) A controlled insurer shall not accept business from a controlling producer and a
- 14 controlling producer shall not place business with a controlled insurer unless there
- 15 is a written contract between the controlling producer and the insurer specifying the
- 16 responsibilities of each party, and the contract has been approved by the board of
- 17 directors of the insurer and contains the following minimum provisions:
- 18 (a) The controlled insurer may terminate the contract for cause, upon written
- 19 notice to the controlling producer. The controlled insurer shall suspend the
- 20 authority of the controlling producer to write business during the pendency of
- 21 any dispute regarding the cause for termination;
- 22 (b) The controlling producer shall render accounts to the controlled insurer
- 23 detailing all material transactions, including information necessary to support
- 24 all commissions, charges, and other fees received by, or owing to, the
- 25 controlling producer;
- 26 (c) The controlling producer shall remit all funds due under the terms of the
- 27 contract to the controlled insurer on at least a monthly basis. The due date

1 shall be fixed so that premiums or installments collected shall be remitted no
2 later than ninety (90) days after the effective date of any policy placed with the
3 controlled insurer under this contract;

4 (d) All funds collected for the controlled insurer's account shall be held by the
5 controlling producer in a fiduciary capacity, in one (1) or more appropriately
6 identified bank accounts in banks that are members of the federal reserve
7 system, in accordance with the provisions of the insurance code, as applicable.
8 Funds of a controlling producer not required to be licensed in this state shall
9 be maintained in compliance with the requirements of the controlling
10 producer's domiciliary jurisdiction;

11 (e) The controlling producer shall maintain separately identifiable records of
12 business written for the controlled insurer;

13 (f) The contract shall not be assigned in whole or in part by the controlling
14 producer;

15 (g) The controlled insurer shall provide the controlling producer with its
16 underwriting standards, rules and procedures, and with manuals stating the
17 rates to be charged and the conditions for the acceptance or rejection of risks.
18 The controlling producer shall adhere to the standards, rules, procedures,
19 rates, and conditions. The standards, rules, procedures, rates, and conditions
20 shall be the same as those applicable to comparable business placed with the
21 controlled insurer by a producer other than the controlling producer;

22 (h) The rates and terms of the controlling producer's commissions, charges, or
23 other fees and the purposes for those charges or fees. The rates of
24 commissions, charges, and other fees shall be no greater than those applicable
25 to comparable business placed with the controlled insurer by producers other
26 than the controlling producers. For purposes of this paragraph and paragraph
27 (g) of this subsection, examples of "comparable business" include the same

1 lines of insurance, same kinds of insurance, same kinds of risks, similar policy
2 limits, and similar quality of business. This paragraph does not authorize
3 controlling producers to charge fees which the controlling producer is not
4 otherwise permitted to charge under the provisions of the insurance code;

5 (i) If the contract provides that the controlling producer, on insurance business
6 placed with the insurer, is to be compensated contingent upon the insurer's
7 profits on that business, then such compensation shall not be determined and
8 paid until at least five (5) years after the premiums on liability insurance are
9 earned and at least one (1) year after the premiums are earned on any other
10 insurance. In no event shall the commissions be paid until the adequacy of the
11 controlled insurer's reserves on remaining claims has been independently
12 verified pursuant to subsection (3) of this section;

13 (j) A limit on the controlling producer's writings in relation to the controlled
14 insurer's surplus and total writings. The insurer may establish a different limit
15 for each line or subline of business. The controlled insurer shall notify the
16 controlling producer when the applicable limit is approached and shall not
17 accept business from the controlling producer if the limit is reached. The
18 controlling producer shall not place business with the controlled insurer if it
19 has been notified by the controlled insurer that the limit has been reached; and

20 (k) The controlling producer may negotiate, but shall not bind, reinsurance on
21 behalf of the controlled insurer on business the controlling producer places
22 with the controlled insurer, except that the controlling producer may bind
23 facultative reinsurance contracts pursuant to obligatory facultative agreements,
24 if the contract with the controlled insurer contains underwriting guidelines, for
25 both reinsurance assumed and ceded, which include a list of reinsurers with
26 automatic agreements that are in effect, the coverages and amounts or
27 percentages that may be reinsured, and commission schedules.

1 (3) Every controlled insurer shall have an audit committee of the board of directors
 2 composed of independent directors. The audit committee shall annually meet with
 3 the management, the insurer's independent certified public accountants, and an
 4 independent casualty actuary or other independent loss reserve specialist acceptable
 5 to the commissioner~~[executive director]~~ to review the adequacy of the insurer's loss
 6 reserves.

7 (4) Reporting requirements are as follows:

8 (a) In addition to any other required loss reserve certification, the controlled
 9 insurer shall annually, on April 1 of each year, file with the
 10 commissioner~~[executive director]~~ an opinion of an independent casualty
 11 actuary, or other independent loss reserve specialist acceptable to the
 12 commissioner~~[executive director]~~, reporting loss ratios for each line of
 13 business written and attesting to the adequacy of loss reserves established for
 14 losses incurred and outstanding as of the end of the year, including incurred
 15 but not reported losses, on business placed by the producer; and

16 (b) The controlled insurer shall annually report to the commissioner~~[executive~~
 17 ~~director]~~ the amount of commissions paid to the producer, the percentage that
 18 amount represents of the net premiums written, and comparable amounts and
 19 percentage paid to noncontrolling producers for placements of the same kinds
 20 of insurance.

21 ➔Section 980. KRS 304.3-420 is amended to read as follows:

22 (1) If the commissioner~~[executive director]~~ believes that the controlling producer or
 23 any other person has not materially complied with KRS 304.3-400 to 304.3-430, or
 24 any administrative regulation or order promulgated under KRS 304.3-400 to 304.3-
 25 430, the commissioner~~[executive director]~~ may:

26 (a) Order the controlling producer to cease placing business with the controlled
 27 insurer; or

1 (b) If it was found that because of the material noncompliance that the controlled
 2 insurer or any policyholder has suffered any loss or damage, the
 3 commissioner~~executive director~~ may maintain a civil action, intervene in an
 4 action brought by or on behalf of the insurer or a policyholder for recovery of
 5 compensatory damages for the benefit of the insurer or policyholder, or seek
 6 other appropriate relief.

7 (2) Appeals from orders issued under subsection (1) of this section shall be taken as
 8 provided in Subtitle 2 of this chapter.

9 (3) If an order for liquidation or rehabilitation of the controlled insurer has been entered
 10 pursuant to Subtitle 33 of this chapter, and the receiver appointed under that order
 11 believes that the controlling producer or any other person has not materially
 12 complied with KRS 304.3-400 to 304.3-430, or any administrative regulation or
 13 order promulgated under KRS 304.3-400 to 304.3-430, and the insurer suffered any
 14 loss or damage, the receiver may maintain a civil action for recovery of the damages
 15 or seek other appropriate sanctions for the benefit of the insurer.

16 (4) Nothing contained in this section shall affect the right of the
 17 commissioner~~executive director~~ to exercise any other authority granted to him or
 18 her by law.

19 (5) Nothing contained in this section is intended to or shall in any manner alter or affect
 20 the rights of policyholders, claimants, creditors, or other third parties.

21 ➔Section 981. KRS 304.3-500 is amended to read as follows:

22 As used in KRS 304.3-500 to 304.3-570, unless the context requires otherwise:

23 (1) "Actuary" means a person who is a member in good standing of the American
 24 Academy of Actuaries;

25 (2) "Insurer" means any person duly authorized as an insurer by the
 26 commissioner~~executive director~~;

27 (3) "Controlling agent" means any person who negotiates and binds ceding reinsurance

contracts on behalf of an insurer or manages all or part of the insurance business of an insurer, including the management of a separate division, department, or underwriting office, and acts as an agent for the insurer whether known as a controlling agent or other name, who, with or without the authority, either separately or together with affiliates, produces, directly or indirectly, and underwrites an amount of gross direct written premium equal to more than five percent (5%) of the policyholder surplus as reported in the last annual statement of the insurer in any one (1) quarter or year, and who also adjusts or pays claims in excess of an amount determined by the commissioner~~[executive director]~~, or negotiates reinsurance on behalf of the insurer. The following persons shall not be considered controlling agents:

- (a) An employee of the insurer;
- (b) A United States manager of the United States branch of an alien insurer;
- (c) An underwriting manager which, pursuant to contract, manages all the insurance operations of the insurer, is under common control with the insurer, subject to Subtitle 37 of this chapter, and whose compensation is not based on the volume of premiums written; and
- (d) The attorney-in-fact authorized by and acting for the subscribers of a reciprocal insurer, Lloyd's plan insurer, or interinsurance exchange under powers of attorney.

(4) "Underwrite" means the authority to accept or reject risks on behalf of the insurer.

➔Section 982. KRS 304.3-510 is amended to read as follows:

- (1) A person shall not be, act as, or hold himself or herself out as a controlling agent with respect to risks located in Kentucky for an insurer authorized in Kentucky unless the person is licensed as agent by Kentucky.
- (2) A person shall not be, act as, or hold himself or herself out as a controlling agent representing an insurer domiciled in Kentucky with respect to risks located outside

1 Kentucky unless the person is licensed as an agent by Kentucky.

- 2 (3) The commissioner~~[executive-director]~~ may require a controlling agent to provide
 3 evidence of financial responsibility in the form and amount acceptable to the
 4 commissioner~~[executive-director]~~ for the protection of the insurer, policyholders,
 5 and claimants.

6 ➔Section 983. KRS 304.3-520 is amended to read as follows:

7 A person acting in the capacity of controlling agent shall not place business with an
 8 insurer unless there is in force a written contract between the parties which sets forth the
 9 responsibilities of each party and, where both parties share responsibility for a particular
 10 function, specifies the division of these responsibilities, and which contains the following
 11 minimum provisions:

- 12 (1) The insurer may terminate the contract for cause upon written notice to the
 13 controlling agent. The insurer may suspend the underwriting authority of the
 14 controlling agent during the pendency of any dispute regarding the termination;

- 15 (2) The controlling agent shall render account to the insurer detailing all transactions
 16 and remit all funds due under the contract to the insurer on not less than a monthly
 17 basis;

- 18 (3) All funds collected for the account of the insurer shall be held by the controlling
 19 agent in a fiduciary capacity in a bank which is a member of the federal reserve
 20 system. This account shall be used for all payments on behalf of the insurer. The
 21 controlling agent may retain no more than three (3) months estimated claims
 22 payments and allocated loss adjustment expenses;

- 23 (4) Separate records of business written by the controlling agent shall be maintained.
 24 The insurer shall have access to and the right to copy all accounts and records
 25 related to its business in a form usable by the insurer, and the
 26 commissioner~~[executive-director]~~ shall have access to all books, bank accounts, and
 27 records of the controlling agent in a form usable to the commissioner~~[executive~~

- 1 ~~director~~]. These records shall be retained according to KRS 304.2-220 and the
 2 commissioner's~~[executive director's]~~ administrative regulations;
- 3 (5) The contract shall not be assigned in whole or in part by the controlling agent;
- 4 (6) Appropriate underwriting guidelines, including:
- 5 (a) The maximum annual premium volume;
- 6 (b) The basis of the rates to be charged;
- 7 (c) The types of risks which may be written;
- 8 (d) Maximum limits of liability;
- 9 (e) Applicable exclusions;
- 10 (f) Territorial limitations;
- 11 (g) Policy cancellation provisions, including a statement that the insurer shall
 12 have the right to cancel or nonrenew any policy of insurance subject to
 13 applicable laws concerning the cancellation and nonrenewal of insurance
 14 policies; and
- 15 (h) The maximum policy period.
- 16 (7) If the contract permits the controlling agent to settle claims on behalf of the insurer;
- 17 (a) All claims shall be reported to the insurer in a timely manner;
- 18 (b) A copy of the claim file shall be sent to the insurer at its request or as soon as
 19 it becomes known that the claim:
- 20 1. Has the potential to exceed an amount determined by the
 21 commissioner~~[executive director]~~ or exceeds the limit set by the insurer,
 22 whichever is less;
- 23 2. Involves a coverage dispute;
- 24 3. May exceed the controlling agent's claims settlement authority;
- 25 4. Is open for more than six (6) months; or
- 26 5. Is closed by payment of an amount set by the commissioner~~[executive~~
 27 ~~director]~~ or an amount set by the insurer, whichever is less;

- 1 (c) All claim files shall be the joint property of the insurer and the controlling
 2 agent. However, upon an order of liquidation of the insurer the claim files
 3 shall become the sole property of the insurer or its estate. The controlling
 4 agent shall have reasonable access to and the right to copy the files; and
- 5 (d) Any settlement authority granted to the controlling agent may be terminated
 6 for cause upon the insurer's written notice to the controlling agent or upon the
 7 termination of the contract. The insurer may suspend the settlement authority
 8 during the pendency of any dispute regarding the cause for termination.
- 9 (8) Where electronic claims files are in existence, the contract shall address the timely
 10 transmission of the data;
- 11 (9) If the contract provides for a sharing of interim profits by the controlling agent, and
 12 the controlling agent has the authority to determine the amount of the interim profits
 13 by establishing loss reserves or controlling claim payments, or in any other manner,
 14 interim profits shall not be paid to the controlling agent until one (1) year after they
 15 are earned for property insurance business and five (5) years after they are earned on
 16 casualty business, and not until the profits have been verified pursuant to KRS
 17 304.3-530;
- 18 (10) The controlling agent shall not:
- 19 (a) Bind reinsurance or retrocessions on behalf of the insurer, except that the
 20 controlling agent may bind facultative reinsurance contracts pursuant to
 21 obligatory facultative agreements if the contract with the insurer contains
 22 reinsurance underwriting guidelines, including, for both reinsurance assumed
 23 and ceded, a list of reinsurers with which the automatic agreements are in
 24 effect the coverages and amounts or percentages that may be reinsured, and
 25 commission schedules;
- 26 (b) Commit the insurer to participate in insurance or reinsurance syndicates;
- 27 (c) Appoint any person producing business without assuring that the person is

1 lawfully licensed to transact the type of insurance for which the person~~[he]~~ is
2 appointed;

3 (d) Without prior approval of the insurer, pay or commit the insurer to pay a claim
4 over a specified amount, net of reinsurance, which shall not exceed one
5 percent (1%) of the insurer's policyholder surplus as of December 31 of the
6 last completed calendar year;

7 (e) Collect any payment for a reinsurer or commit the insurer to any claim
8 settlement with a reinsurer without prior approval of the insurer. If prior
9 approval is given, a report shall be promptly forwarded to the insurer;

10 (f) Permit its subproducer to serve on the insurer's board of directors;

11 (g) Jointly employ an individual who is employed with the insurer; or

12 (h) Appoint a subcontrolling agent.

13 ➔Section 984. KRS 304.3-530 is amended to read as follows:

14 (1) The insurer shall have on file an independent financial examination, in a form
15 acceptable to the commissioner~~[executive director]~~, of each controlling agent with
16 which it has done business.

17 (2) If a controlling agent establishes loss reserves, the insurer shall annually obtain the
18 opinion of an actuary attesting to the adequacy of loss reserves established for
19 losses incurred and outstanding on business produced by the controlling agent. This
20 is in addition to any other required loss reserve certification.

21 (3) The insurer shall at least semiannually conduct an on-site review of underwriting
22 and claims processing operations of the controlling agent.

23 (4) Binding authority for all reinsurance contracts or participation in insurance or
24 reinsurance syndicates shall rest with an officer of the insurer, who shall not be
25 affiliated with the controlling agent.

26 (5) Within thirty (30) days of entering into or termination of a contract with a
27 controlling agent, the insurer shall provide written notification of the appointment

1 or termination to the commissioner~~[executive director]~~. Notices of appointment of a
 2 controlling agent shall include a statement of the duties which the applicant is
 3 expected to perform on behalf of the insurer, the lines of insurance for which the
 4 applicant is authorized to act, and any other information the
 5 commissioner~~[executive director]~~ may request.

6 (6) An insurer shall review its books and records each quarter to determine if any
 7 person producing business has become a controlling agent as defined in KRS 304.3-
 8 500(3). If the insurer determines that a person producing business has become a
 9 controlling agent, the insurer shall promptly notify the person producing business
 10 and the commissioner~~[executive director]~~ of this determination and the insurer and
 11 the person producing business must fully comply with the provisions of KRS 304.3-
 12 500 to 304.3-570 within thirty (30) days.

13 (7) An insurer shall not appoint to its board of directors an officer, director, employee,
 14 subproducer, or controlling shareholder of any of its controlling agents. This
 15 subsection shall not apply to relationships governed by Subtitle 37 of this chapter or
 16 any provisions of this subtitle pertaining to business transacted with a producer
 17 controlled property or casualty insurer.

18 ➔Section 985. KRS 304.3-540 is amended to read as follows:

19 The acts of controlling agents are considered to be the acts of the insurer on whose behalf
 20 the controlling agents are acting. A controlling agent may be examined by the
 21 commissioner~~[executive director]~~ as if it were the insurer.

22 ➔Section 986. KRS 304.3-550 is amended to read as follows:

23 (1) If the commissioner~~[executive director]~~ finds that any person has violated any
 24 provision of KRS 304.3-500 to 304.3-570 or KRS 304.9-440, the
 25 commissioner~~[executive director]~~ may order:

26 (a) For each separate violation, a civil penalty in the amounts set forth in KRS
 27 304.99-020;

- 1 (b) Conditions upon, or revocation, or suspension of a license;
- 2 (c) The controlling agent to reimburse the insurer, the rehabilitator, or the
- 3 liquidator of the insurer for any losses incurred by the insurer caused by a
- 4 violation of KRS 304.3-500 to 304.3-570 or KRS 304.9-440 committed by the
- 5 controlling agent; or
- 6 (d) Any combination of paragraphs (a), (b), or (c) of this subsection.
- 7 (2) Appeals from orders issued under subsection (1) of this section shall be taken as
- 8 provided in Subtitle 2 of this chapter.
- 9 (3) Nothing contained in this section shall affect the right of the
- 10 commissioner~~executive director~~ to impose any other penalties or corrective action
- 11 provided for under laws administered by the commissioner~~executive director~~.
- 12 (4) Nothing contained in KRS 304.3-500 to 304.3-570 is intended to or shall in any
- 13 manner limit or restrict the rights of policyholders, claimants, and auditors.
- 14 ➔Section 987. KRS 304.3-560 is amended to read as follows:
- 15 (1) The commissioner~~executive director~~ may promulgate administrative regulations
- 16 for the implementation and administration of the provisions of KRS 304.3-500 to
- 17 304.3-570.
- 18 (2) An insurer shall not continue to utilize the services of a controlling agent on and
- 19 after the effective date of KRS 304.3-500 to 304.3-570 unless utilization is in
- 20 compliance with KRS 304.3-500 to 304.3-570.
- 21 ➔Section 988. KRS 304.4-010 is amended to read as follows:
- 22 (1) The commissioner~~executive director~~ shall by regulation prescribe the fees charged
- 23 by the commissioner~~executive director~~ and the services for which fees shall be
- 24 charged, including the following fees:
- 25 (a) For copies of any document on file with the commissioner~~executive~~
- 26 ~~director~~, per page, thirty cents (\$0.30); and
- 27 (b) For copies of annual statements, per page, one dollar (\$1).

1 (2) All fees shall be collected in advance.

2 (3) Notwithstanding subsection (2) of this section, an insurer submitting applications,
3 appointments, or filings through the electronic system adopted by the
4 department~~[office]~~ shall remit the applicable fees to the department~~[office]~~ within
5 fifteen (15) calendar days of the electronic submission.

6 ➔Section 989. KRS 304.4-020 is amended to read as follows:

7 The commissioner~~[executive director]~~ shall promptly pay into the State Treasury all fees,
8 licenses, and charges collected ~~[by him]~~ under the provisions of KRS 304.4-010.

9 ➔Section 990. KRS 304.4-040 is amended to read as follows:

10 The commissioner~~[executive director]~~ may revoke the certificate of authority of any
11 insurer which fails to pay when due any taxes, fees, licenses, and other charges owing to
12 this state. The commissioner~~[executive director]~~ may likewise revoke the license of any
13 agent, surplus lines broker, adjuster, administrator, reinsurance intermediary broker or
14 manager, rental vehicle agent or managing employee, specialty credit producer or
15 managing employee, life settlement broker or provider, or consultant, as to whom any tax
16 or fee required under this code has not been paid when due.

17 ➔Section 991. KRS 304.5-070 is amended to read as follows:

18 (1) "Casualty insurance" includes:

19 (a) Vehicle insurance. Insurance against loss of or damage to any land vehicles or
20 aircraft or any draft or riding animal or to property while contained therein or
21 thereon or being loaded or unloaded therein or therefrom, from any hazard or
22 cause, and against any loss, liability, or expense resulting from or incidental to
23 ownership, maintenance, or use of any such vehicle, aircraft, or animal;
24 together with insurance against accidental injury to individuals, irrespective of
25 legal liability of the insured, including the named insured, while in, entering,
26 alighting from, adjusting, repairing, cranking, or caused by being struck by a
27 vehicle, aircraft, or draft or riding animal, if the insurance is issued as an

1 incidental part of insurance on the vehicle, aircraft, or draft or riding animal;

2 (b) Liability insurance. Insurance against legal liability for the death, injury, or
3 disability of any human being, or for damage to property; and provision of
4 medical, hospital, surgical, disability benefits to injured persons and funeral
5 and death benefits to dependents, beneficiaries, or personal representatives of
6 persons killed, irrespective of legal liability of the insured, when issued as an
7 incidental coverage with or supplemental to liability insurance;

8 (c) Workers' compensation and employer's liability. Insurance of the obligations
9 accepted by, imposed upon, or assumed by employers under law for death,
10 disablement, or injury of employees;

11 (d) Burglary and theft. Insurance against loss or damage by burglary, theft,
12 larceny, robbery, forgery, fraud, vandalism, malicious mischief, confiscation,
13 or wrongful conversion, disposal or concealment, or from any attempt at any
14 of the foregoing; including supplemental coverage for medical, hospital,
15 surgical, and funeral expense incurred by the named insured or any other
16 person as a result of bodily injury during the commission of a burglary,
17 robbery, or theft by another; also insurance against loss of or damage to
18 moneys, coins, bullion, securities, notes, drafts, acceptances, or any other
19 valuable papers and documents, resulting from any cause;

20 (e) Personal property floater. Insurance upon personal effects against loss or
21 damage from any cause;

22 (f) Glass. Insurance against loss or damage to glass, including its lettering,
23 ornamentation, and fittings;

24 (g) Boiler and machinery. Insurance against any liability and loss or damage to
25 property or interest resulting from accidents to or explosions of boilers, pipes,
26 pressure containers, machinery, or apparatus, and the inspection of and
27 issuance of certificates of inspection upon boilers, machinery, and apparatus

- 1 of any kind, whether or not insured;
- 2 (h) Leakage and fire extinguishing equipment. Insurance against loss or damage
3 to any property or interest caused by the breakage or leakage of sprinklers,
4 hoses, pumps and other fire extinguishing equipment or apparatus, water pipes
5 or containers, or by water entering through leaks or openings in buildings, and
6 insurance against loss or damage to sprinklers, hoses, pumps, and other fire
7 extinguishing equipment or apparatus;
- 8 (i) Credit. Insurance, other than mortgage guaranty insurance, against loss or
9 damage resulting from failure of debtors to pay their obligations to the
10 insured;
- 11 (j) Malpractice. Insurance against legal liability of the insured, and against loss,
12 damage, or expense incidental to a claim of such liability, and including
13 medical, hospital, surgical, and funeral benefits to injured persons,
14 irrespective of legal liability of the insured, arising out of the death, injury, or
15 disablement of any person, or arising out of damage to the economic interest
16 of any person, as the result of negligence in rendering expert, fiduciary, or
17 professional service;
- 18 (k) Elevator. Insurance against loss of or damage to any property of the insured,
19 resulting from the ownership, maintenance, or use of elevators, except loss or
20 damage by fire, and the inspection of and issuance of certificates of inspection
21 upon, elevators;
- 22 (l) Congenital defects. Insurance against congenital defects in human beings;
- 23 (m) Livestock. Insurance against loss of or damage to livestock from any cause;
- 24 (n) Entertainments. Insurance indemnifying the producer of any motion picture,
25 television, radio, theatrical, sport, spectacle, entertainment, or similar
26 production, event, or exhibition against loss from interruption, postponement,
27 or cancellation thereof due to death, accidental injury, or sickness of

1 performers, participants, directors, or other principals;

2 (o) Failure of certain institutions to record documents. Insurance indemnifying
3 against loss from failure or omission to record as public records, liens of any
4 kind upon personal property, given, held, delivered, or possessed as security
5 or collateral for loans, advances, debts, or obligations of all kinds;

6 (p) Automobile guaranty. Insurance of the mechanical condition or freedom from
7 defective or worn parts of motor vehicles, other than as provided by
8 manufacturer's warranty. Provided, however, the making of a contract
9 covering only defects in material and workmanship in exchange for a
10 separately stated charge where it is merely incidental to the business of selling
11 or leasing motor vehicles, shall not be deemed insurance, provided, that the
12 maker of the contract has an insurance policy with an authorized motor
13 vehicle insurer as defined in KRS 304.1-100 to assure the performance of the
14 duties of the maker created by each on all of the contracts made by the maker.
15 In the event that the maker of the contract is unable to perform the duties
16 imposed thereby, the purchaser of the contract shall then be considered a
17 policyholder of the insurer. The policy shall include a loss payee endorsement
18 that provides coverage to any lending institution as its interest may appear. In
19 addition, the contract shall conspicuously state the name and address of the
20 licensed underwriting insurer and contain a statement that the holder shall be
21 entitled to make a direct claim against that insurer upon the failure of the
22 maker to pay any claim within sixty (60) days after proof of loss has been filed
23 with the maker. The requirements that the maker of the contract have an
24 insurance policy with an authorized motor vehicle insurer as defined in KRS
25 304.1-100 shall not apply where the maker is a manufacturer, distributor, or
26 importer of motor vehicles. As used in this paragraph, the term "maker" shall
27 include a warranty service company which issues automobile guaranties

1 through a motor vehicle dealer, in which the motor vehicle dealer is not an
 2 obligor under the contract. The commissioner~~[executive director]~~ is
 3 authorized to promulgate regulations to interpret this paragraph; and

4 (q) Miscellaneous. Insurance against any other kind of loss, damage, or liability
 5 properly a subject of insurance and not within any other kind of insurance as
 6 defined in this subtitle, if the insurance is not disapproved by the
 7 commissioner~~[executive director]~~ as being contrary to law or public policy. A
 8 service contract to repair, replace, or maintain consumer products shall not be
 9 insurance, if the maker of the service contract registers with the
 10 commissioner~~[executive director]~~ and provides:

- 11 1. Evidence of a sufficient net worth, as determined by the
- 12 commissioner~~[executive director]~~, to assure the performance of the
- 13 duties of the maker created by all of the contracts made by the maker; or
- 14 2. Evidence of an insurance policy or performance bond with an authorized
- 15 insurer as defined in KRS 304.1-100, to assure the performance of the
- 16 duties of the maker created by all of the service contracts made by the
- 17 maker.

18 As set forth in subparagraph 2. of this paragraph, if the maker of the service
 19 contract is unable to perform the duties imposed thereby, the purchaser of the
 20 service contract shall then be considered a policyholder of the insurer. The
 21 service contract shall conspicuously state the name and address of the licensed
 22 underwriting insurer and contain a statement that the holder shall be entitled
 23 to make a direct claim against the insurer upon the failure of the maker to pay
 24 any claim within sixty (60) days after the claim has been filed with the maker.
 25 The requirements of this paragraph shall not apply where the maker is a
 26 manufacturer of consumer products. If the maker of the service contract
 27 registers with the commissioner~~[executive director]~~ and subsequently

determines that the information submitted pursuant to subparagraph 1. of this paragraph no longer reflects a sufficient net worth as determined by the commissioner~~[executive director]~~, to assure the performance of the duties of the maker created by all of the contracts made by the maker, the maker shall notify the commissioner~~[executive director]~~ of the change in circumstances. Each registration filing with the commissioner~~[executive director]~~ shall be filed within thirty (30) calendar days in advance of the selling of service contracts to repair, replace, or maintain consumer goods. The commissioner~~[executive director]~~ is authorized to promulgate administrative regulations pursuant to KRS Chapter 13A to effectuate this paragraph.

- (2) Provision of medical, hospital, surgical, and funeral benefits and of coverage against accidental death or injury, as incidental to and part of other insurance as stated under paragraphs (a) (vehicle), (b) (liability), (d) (burglary), (g) (boiler machinery), (j) (malpractice), and (k) (elevator) of subsection (1) of this section shall for all purposes be deemed to be the same kind of insurance to which it is so incidental, and shall not be subject to provisions of this code applicable to life and health insurances.

→ Section 992. KRS 304.5-120 is amended to read as follows:

- (1) No insurer shall retain any risk on any one (1) subject of insurance, whether located or to be performed in this state or elsewhere, in an amount exceeding ten percent (10%) of its surplus to policyholders.
- (2) A "subject" of insurance for the purposes of this section, as to insurance against fire and hazards other than windstorm, earthquake and other catastrophic hazards, includes all properties insured by the same insurer which are customarily considered by underwriters to be subject to loss or damage from the same fire or the same occurrence of any other hazard insured against.
- (3) Reinsurance ceded, as authorized by KRS 304.5-140, shall be deducted in

1 determining risk retained. As to surety risks, deduction shall be made of the amount
 2 assumed by any authorized co-surety and the value of any security deposited,
 3 pledged, or held subject to the surety's consent and for the surety's protection.

4 (4) As to alien insurers, this section shall relate only to risks and surplus to
 5 policyholders of the insurer's United States branch.

6 (5) "Surplus to policyholders" for the purposes of this section, in addition to the
 7 insurer's capital and surplus, shall be deemed to include any voluntary reserves
 8 which are not required pursuant to law, and shall be determined from the last sworn
 9 statement of the insurer on file with the commissioner~~executive director~~, or by the
 10 last report of examination of the insurer, whichever is the more recent at time of
 11 assumption of risk.

12 (6) This section shall not apply to life or health insurance, annuities, title insurance,
 13 insurance of wet marine and transportation risks, workers' compensation insurance,
 14 employers' liability coverages, nor to any policy or type of coverage as to which the
 15 maximum possible loss to the insurer is not readily ascertainable on issuance of the
 16 policy.

17 (7) Limits of risk as to newly formed domestic mutual insurers shall be as provided in
 18 KRS 304.24-100.

19 (8) Limits of risk as to mortgage guaranty insurers shall be as provided in KRS 304.23-
 20 030.

21 ➔Section 993. KRS 304.5-140 is amended to read as follows:

22 (1) (a) For the purposes of subsection (3)(c) of this section, a "qualified United States
 23 financial institution" means an institution that:

24 1. Is organized or, in the case of a United States office of a foreign banking
 25 organization, licensed under the laws of the United States or any state
 26 thereof;

27 2. Is regulated, supervised, and examined by the United States federal or

1 state authorities having regulatory authority over banks and trust
2 companies; and

3 3. Has been determined by the commissioner~~executive director~~, or the
4 Securities Valuation Office of the National Association of Insurance
5 Commissioners, to meet the standards of financial condition and
6 standing considered necessary and appropriate to regulate the quality of
7 financial institutions whose letters of credit will be acceptable to the
8 commissioner~~executive director~~.

9 (b) A "qualified United States financial institution" means, for purposes of those
10 provisions of this section specifying those institutions that are eligible to act as
11 a fiduciary of a trust, an institution that:

12 1. Is organized or, in the case of a United States branch or agency office of
13 a foreign banking organization, licensed under the laws of the United
14 States or any state thereof and has been granted authority to operate with
15 fiduciary powers; and

16 2. Is regulated, supervised, and examined by federal or state authorities
17 having regulatory authority over banks and trust companies.

18 (2) Credit for reinsurance shall be allowed a ceding insurer as either an asset or a
19 deduction from liability on account of reinsurance ceded only when the reinsurer
20 meets the requirements of paragraphs (a), (b), (c), (d), or (e) of this subsection. If
21 meeting the requirements of paragraphs (c) or (d) of this subsection, the
22 requirements of paragraph (f) of this subsection shall also be met.

23 (a) Credit shall be allowed when the reinsurance is ceded to an assuming insurer
24 which is authorized to transact insurance or reinsurance in Kentucky.

25 (b) Credit shall be allowed when the reinsurance is ceded to an assuming insurer
26 which is accredited as a reinsurer in Kentucky. An accredited reinsurer is one
27 which:

- 1 1. Files with the commissioner~~[executive director]~~ evidence of its
- 2 submission to Kentucky's jurisdiction;
- 3 2. Submits to Kentucky's authority to examine its books and records;
- 4 3. Is licensed to transact insurance or reinsurance in at least one (1) state,
- 5 or in the case of a United States branch of an alien assuming insurer, is
- 6 entered through and licensed to transact insurance or reinsurance in at
- 7 least one (1) state;
- 8 4. Files annually with the commissioner~~[executive director]~~ a copy of its
- 9 annual statement filed with the insurance regulatory official of its state
- 10 of domicile and a copy of its most recent audited financial statement,
- 11 and either:
- 12 a. Maintains a surplus as regards policyholders in an amount which is
- 13 not less than twenty million dollars (\$20,000,000) and whose
- 14 accreditation has not been denied by the commissioner~~[executive~~
- 15 ~~director]~~ within ninety (90) days of its submission; or
- 16 b. Maintains a surplus as regards policyholders in an amount less
- 17 than twenty million dollars (\$20,000,000) and whose accreditation
- 18 has been approved by the commissioner~~[executive director]~~.
- 19 5. Credit shall not be allowed a ceding insurer under this paragraph if the
- 20 assuming insurer's accreditation has been revoked by the
- 21 commissioner~~[executive director]~~ after notice and hearing.
- 22 (c) Credit shall be allowed when the reinsurance is ceded to an assuming insurer
- 23 which is domiciled and licensed in or, in the case of a United States branch of
- 24 an alien assuming insurer, is entered through a state which employs standards
- 25 regarding credit for reinsurance substantially similar to those applicable under
- 26 this section and the assuming insurer or United States branch of an alien
- 27 insurer:

1. Maintains a surplus as regards policyholders in an amount not less than twenty million dollars (\$20,000,000); and
2. Submits to the authority of the commissioner~~executive-director~~ to examine its books and records.

However, subparagraph 1. of this paragraph shall not apply to reinsurance ceded and assumed pursuant to pooling arrangements among insurers in the same holding company system.

- (d) 1. Credit shall be allowed when the reinsurance is ceded to an assuming insurer which maintains a trust fund in a qualified United States financial institution for the payment of valid claims of its United States policyholders and ceding insurers, their assigns, and successors in interest. The assuming insurer shall report annually to the commissioner~~executive-director~~ information substantially the same as that required to be reported on the National Association of Insurance Commissioners annual statement form by authorized insurers to enable the commissioner~~executive-director~~ to determine the sufficiency of the trust fund. In the case of a single assuming insurer, the trust fund shall consist of a trustee account representing the assuming insurer's liabilities attributable to business written in the United States and, in addition, the assuming insurer shall maintain a trustee surplus of not less than twenty million dollars (\$20,000,000). In the case of a group including incorporated and individual unincorporated underwriters, the trust shall consist of a trustee account representing the group's liabilities attributable to business written in the United States; and, in addition, the group shall maintain a trustee surplus of which one hundred million dollars (\$100,000,000) shall be held jointly for the benefit of United States ceding insurers of any member of the group, the

1 incorporated members of which group shall not be engaged in any
 2 business other than underwriting as a member of the group and shall be
 3 subject to the same level of solvency regulation and control by the
 4 group's domiciliary regulator as are the unincorporated members; and
 5 the group shall make available to the commissioner~~[executive-director]~~
 6 an annual certification of the solvency of each underwriter by the group's
 7 domiciliary insurance regulatory official and its independent public
 8 accountants.

9 2. In the case of a group of incorporated insurers under common
 10 administration which complies with the filing requirements contained in
 11 subparagraph 1. of this paragraph, and which is under the supervision of
 12 the Department of Trade and Industry of the United Kingdom and
 13 submits to the commissioner's~~[executive-director's]~~ authority to
 14 examine its books and records and bears the expense of the estimation,
 15 and which has aggregate policyholders' surplus of ten billion dollars
 16 (\$10,000,000,000), the trust shall be in an amount equal to the group's
 17 several liabilities attributable to business written in the United States
 18 plus the group shall maintain a joint trustee surplus of which one
 19 hundred million dollars (\$100,000,000) shall be held jointly for the
 20 benefit of United States ceding insurers of any member of the group, and
 21 each member of the group shall make available to the
 22 commissioner~~[executive-director]~~ an annual certification of the
 23 member's solvency by the member's domiciliary insurance regulatory
 24 official and its independent public accountant.

25 3. The trust shall be established in a form approved by the
 26 commissioner~~[executive-director]~~. The trust instrument shall provide
 27 that contested claims shall be valid and enforceable upon the final order

of any court of competent jurisdiction in the United States. The trust shall vest legal title to its assets in the trustees of the trust for its United States policyholders and ceding insurers, their assigns, and successors in interest. The trust and the assuming insurer shall be subject to examination as determined by the commissioner~~[executive director]~~. The trust shall remain in effect for as long as the assuming insurer shall have outstanding obligations due under the reinsurance agreements subject to the trust.

4. No later than February 28 of each year, the trustees of the trust shall report to the commissioner~~[executive director]~~ in writing setting forth the balance of the trust and listing the trust's investments at the preceding year end and shall certify the date of termination of the trust, if so planned, or certify that the trust shall not expire prior to the next following December 31.

(e) Credit shall be allowed when the reinsurance is ceded to an assuming insurer not meeting the requirements of paragraphs (a), (b), (c), or (d) of this subsection, but only with respect to the insurance of risks located in jurisdictions where such reinsurance is required by applicable law or regulation of that jurisdiction or reinsurance ceded to a residual market mechanism reinsurance association, or the members thereof, created pursuant to law or which has been voluntarily created as such by its members with the approval of the commissioner~~[executive director]~~.

(f) If the assuming insurer is not authorized or accredited to transact insurance or reinsurance in Kentucky, the credit permitted by paragraphs (c) and (d) of this subsection shall not be allowed unless the assuming insurer agrees in the reinsurance agreements:

1. That in the event of the failure of the assuming insurer to perform its

obligations under the terms of the reinsurance agreement, the assuming insurer, at the request of the ceding insurer, shall submit to the jurisdiction of any court of competent jurisdiction in any state of the United States, shall comply with all requirements necessary to give the court jurisdiction, and shall abide by the final decision of the court or of any appellate court in the event of an appeal; and

2. To designate the Secretary of State or a designated attorney as its true and lawful attorney upon whom may be served any lawful process in any action, suit, or proceeding instituted by or on behalf of the ceding insurer.

This paragraph is not intended to conflict with or override the obligation of the parties to a reinsurance agreement to arbitrate their disputes, if this obligation is created in the agreement.

- (3) A reduction from liability for the reinsurance ceded by an insurer to an assuming insurer not meeting the requirements of subsection (2) of this section shall be allowed in an amount not exceeding the liabilities carried by the ceding insurer and the reduction shall be in the amount of funds held by or on behalf of the ceding insurer, including funds held in trust for the ceding insurer, under a reinsurance contract with the assuming insurer as security for the payment of obligations thereunder, if the security is held in the United States subject to withdrawal solely by, and under the exclusive control of, the ceding insurer, or, in the case of a trust, held in a qualified United States financial institution. This security may be in the form of:

- (a) Cash;
- (b) Securities listed by the Securities Valuation Office of the National Association of Insurance Commissioners and qualifying as admitted assets;
- (c) Clean, irrevocable, unconditional letters of credit issued or confirmed by a

qualified United States financial institution no later than December 31 in respect of the year for which filing is being made, and in the possession of the ceding insurer on or before the filing date of its annual statement. Letters of credit meeting applicable standards of issuer acceptability as of the dates of their issuance, or confirmation, shall, notwithstanding the issuing, or confirming, institution's subsequent failure to meet applicable standards of issuer acceptability, continue to be acceptable as security until their expiration, extension, renewal, modification, or amendment, whichever first occurs; or

(d) Any other form of security acceptable to the commissioner~~executive director~~.

(4) Cession of bulk reinsurance by a domestic insurer is subject to KRS 304.24-420.

(5) (a) Credit shall be allowed as an asset or as a deduction from liability, to any ceding insurer for reinsurance ceded to an assuming insurer qualified therefor under subsections (2), (3), or (4) of this section, except that no such credit shall be allowed unless the reinsurance contract provides, in substance, that in the event of the insolvency of the ceding insurer, the reinsurance shall be payable under a contract reinsured by the assuming insurer on the basis of reported claims allowed by the liquidation court, without diminution because of the insolvency of the ceding insurer. Such payments shall be made directly to the ceding insurer or to its domiciliary liquidator except:

1. Where the contract or other written agreement specifically provides another payee of such reinsurance in the event of the insolvency of the ceding insurer; or
2. Where the assuming insurer, with the consent of the direct insured, has assumed such policy obligations of the ceding insurer as direct obligations of the assuming insurer to the payees under such policies and

1 in substitution for the obligations of the ceding insurer to such payees.

2 (b) The reinsurance agreement may provide that the domiciliary liquidator of an
 3 insolvent ceding insurer shall give written notice to the assuming insurer of
 4 the pendency of a claim against such ceding insurer on the contract reinsured
 5 within a reasonable time after such claim is filed in the liquidation proceeding.
 6 During the pendency of such claim, any assuming insurer may investigate
 7 such claim and interpose, at its own expense, in the proceeding where such
 8 claim is to be adjudicated, any defenses which it deems available to the ceding
 9 insurer or its liquidator. Such expense may be filed as a claim against the
 10 insolvent ceding insurer to the extent of a proportionate share of the benefit
 11 which may accrue to the ceding insurer solely as a result of the defense
 12 undertaken by the assuming insurer. Where two (2) or more assuming insurers
 13 are involved in the same claim and a majority in interest elect to interpose a
 14 defense to such claim, the expense shall be apportioned in accordance with the
 15 terms of the reinsurance agreement as though such expense had been incurred
 16 by the ceding insurer.

17 (6) Upon request of the commissioner~~[executive director]~~ an insurer shall promptly
 18 inform the commissioner~~[executive director]~~ in writing of the cancellation or any
 19 other material change of any of its reinsurance treaties or arrangements.

20 (7) Subsections (1) to (3) of this section shall apply to all cessions after July 14, 1992,
 21 under reinsurance agreements which have had an inception, anniversary, or renewal
 22 date not less than six (6) months after July 14, 1992.

23 ➔Section 994. KRS 304.5-150 is amended to read as follows:

24 Complete copies of reinsurance treaties and contracts shall, at his request, be filed with
 25 and approved by the commissioner~~[executive director]~~.

26 ➔Section 995. KRS 304.6-010 is amended to read as follows:

27 (1) In any determination of the financial condition of an insurer, there shall be allowed

1 as assets only such assets as are owned by the insurer and which consist of:

2 (a) Cash in the possession of the insurer, or in transit under its control, and
3 including the true balance of any deposit in a solvent bank or trust company.

4 (b) Investments, securities, properties and loans acquired or held in accordance
5 with this code and in connection therewith the following items:

6 1. Interest due or accrued on any bond or evidence of indebtedness which
7 is not in default and which is not valued on a basis including accrued
8 interest.

9 2. Declared and unpaid dividends on stocks and shares, unless such amount
10 has otherwise been allowed as an asset.

11 3. Interest due or accrued upon a collateral loan in an amount not to exceed
12 one (1) year's interest thereon.

13 4. Interest due or accrued on deposits in solvent banks and trust companies,
14 and interest due or accrued on other assets, if such interest is in the
15 judgment of the commissioner~~executive director~~ a collectible asset.

16 5. Interest due or accrued on a mortgage loan, in an amount not exceeding
17 in any event the amount, if any, of the excess of the value of the property
18 less delinquent taxes thereon over the unpaid principal. Collectible
19 interest one hundred eighty (180) days past due on a mortgage loan in
20 default is a nonadmitted asset.

21 6. Rent due or accrued on real property if such rent is not in arrears for
22 more than three (3) months, and rent more than three (3) months in
23 arrears if the payment of such rent be adequately secured by property
24 held in the name of the tenant and conveyed to the insurer as collateral.

25 (c) Premium notes, policy loans, and other policy assets and liens on policies of
26 life insurance and annuity contracts and accrued interest thereon, in an amount
27 not exceeding the policy reserves or cash surrender value.

- 1 (d) The net amount of uncollected and deferred premiums and annuity
2 considerations in the case of a life insurer, corresponding to the basis on
3 which reserves are held.
- 4 (e) Premiums in the course of collection, other than for life insurance, not more
5 than three (3) months past due, less commissions payable thereon. To the
6 extent that there is no related unearned premium, any uncollected premium
7 balances which are over ninety (90) days due shall be nonadmitted. The
8 uncollected agent's receivable on a policy basis which is over ninety (90) days
9 due shall be nonadmitted regardless of any unearned premium.
- 10 (f) Installment premiums other than life insurance premiums to the extent of the
11 policy reserve carried on the policy to which premiums apply. If an
12 installment premium is past due, the amount over ninety (90) days due plus all
13 future installments that have been recorded on that policy shall be
14 nonadmitted.
- 15 (g) Bills receivable for premiums other than life insurance premiums, on policies
16 permitted to be issued on such basis, to the extent of the policy reserve carried
17 thereon. Bills receivable shall be nonadmitted if either of the following
18 conditions are present:
- 19 1. If an installment premium is over ninety (90) days due, the entire bill's
20 receivable balance from that policy shall be nonadmitted; or
- 21 2. If the bill's receivable balance due exceeds the policy's unearned
22 premium, the amount in excess of the unearned premium is
23 nonadmitted.
- 24 (h) The full amount of reinsurance recoverable on paid losses and loss adjustment
25 expense by a ceding insurer from a solvent reinsurer and which reinsurance is
26 authorized under KRS 304.5-140.
- 27 (i) Funds held or deposited with reinsured companies, whether premiums

1 withheld as security for unearned premium and outstanding loss reserves or
 2 advances for loss payments, are admitted assets provided they do not exceed
 3 the liabilities they secure and provided the reinsured is solvent. Any funds in
 4 excess of the liabilities, and any funds held by an insolvent reinsured, shall be
 5 nonadmitted.

6 (j) Deposits or equities recoverable from underwriting associations, syndicates
 7 and reinsurance funds, or from any suspended banking institution, to the
 8 extent deemed by the commissioner~~executive director~~ available for the
 9 payment of losses and claims and at values to be determined by the
 10 commissioner~~executive director~~.

11 (k) As to a title insurer, its title plant and equipment reasonably necessary for
 12 conduct of its abstract or title insurance business, at not to exceed the cost
 13 thereof.

14 (l) Electronic data processing equipment and operating software are admitted
 15 assets to the extent they conform to the requirements of SSAP No. 4.
 16 Electronic data processing equipment and software shall be depreciated for a
 17 period not to exceed three (3) years using methods detailed in SSAP No. 19.
 18 The aggregate value of admitted electronic data processing equipment and
 19 operating system software (net of accumulated depreciation) shall be limited
 20 to three percent (3%) of the reporting entity's capital and surplus on the
 21 statutory balance sheet for its most recently filed statement with its domiciliary
 22 state commissioner, adjusted to exclude electronic data processing equipment
 23 and operating system software, net deferred tax assets, and net positive
 24 goodwill.

25 (m) A collateral loan or unconditional obligation for the payment of money
 26 secured by the pledge of an investment to the extent it conforms to the
 27 requirements of SSAP No. 4. The outstanding principal balance on the loan

1 and any related accrued interest shall be recorded as an admitted asset subject
2 to the following limitations:

3 1. A collateral loan determined to be impaired shall be an admitted asset
4 equal to the fair market value of the collateral less estimated costs to
5 obtain and sell the collateral. The difference between the net fair value
6 of the collateral and the amount of the collateral loan shall be written off
7 in accordance with SSAP No. 5.

8 2. A collateral loan secured by an asset that does not qualify as an
9 investment shall be nonadmitted.

10 3. A collateral loan that exceeds the fair market value of the collateral shall
11 be an admitted asset equal to the fair market value of the collateral. The
12 excess shall be classified as a nonadmitted asset.

13 (n) Deferred tax assets as defined in SSAP No. 10.

14 (o) Receivable for securities as defined in SSAP No. 21.

15 (p) Guaranteed investment contracts as defined in SSAP No. 21.

16 (q) Cash value of life insurance where the reporting entity is owner and
17 beneficiary as defined in SSAP No. 21.

18 (r) Other amounts receivable under reinsurance contracts as defined in SSAP No.
19 21.

20 (s) State guarantee association promissory notes.

21 (t) All assets as may be allowed pursuant to the accounting practices and
22 procedures manual.

23 (u) Other assets, not inconsistent with the provisions of this section, deemed by
24 the commissioner~~[executive director]~~ to be available for the payment of losses
25 and claims, at values to be determined by the commissioner~~[executive~~
26 ~~director]~~.

27 (2) Admitted assets may be allowed as deductions from corresponding liabilities, and

liabilities may be charged as deductions from assets, and deductions from assets may be charged as liabilities, in accordance with the form of annual statement applicable to such insurer as prescribed by the commissioner~~[executive director]~~, or otherwise in his or her discretion. The commissioner~~[executive director]~~ may make official regulations prescribing the application of the provisions of this section.

➔Section 996. KRS 304.6-030 is amended to read as follows:

- (1) Any member, officer, director, employee, or attorney in fact of any company, association, or exchange licensed to do an insurance business in this state, who on behalf of such company, association, or exchange, borrows, rents, hires, leases, or otherwise engages the use of stocks, bonds, debentures, notes, investment certificates, securities, or other obligations or evidences of indebtedness owned or issued by any other corporation, company, association, or individual, or of any government, political subdivision, or agency thereof, with intent to injure or defraud any other company, body politic, or corporation, or person, or to deceive the commissioner~~[executive director]~~ or other person legally authorized to examine the affairs of any such company, association, or exchange, is guilty of a Class D felony.
- (2) Any individual that aids and abets such insurance company, association, or exchange in borrowing, renting, hiring, leasing, or engaging the use of such stocks, bonds, debentures, notes, investment certificates, securities, or other obligations or evidences of indebtedness, is guilty of a Class D felony.
- (3) If any insurance company, association, or exchange is found in possession of stocks, bonds, debentures, notes, investment certificates, securities, or other obligations or evidences of indebtedness acquired in violation of subsection (1) of this section, or if any of its officers, directors, members, or attorneys in fact have been convicted under subsection (1) of this section, the company, association, or exchange may be subject to suspension of its certificate of authority by the commissioner~~[executive director]~~. Nothing in this section shall be construed to prevent the

1 commissioner~~[executive-director]~~ from commencing delinquency proceedings
 2 under this code.

3 ➔Section 997. KRS 304.6-040 is amended to read as follows:

4 In any determination of the financial condition of an insurer, capital stock and liabilities
 5 to be charged against its assets shall include:

6 (1) The amount of its capital stock outstanding, if any, less the amount of shares held
 7 by the insurer as treasury stock as provided in subsection (3) of KRS 304.6-020.

8 (2) The amount, estimated consistent with the provisions of Subtitle 6, necessary to pay
 9 all of its unpaid losses and claims incurred on or prior to the date of statement,
 10 whether reported or unreported, together with the expenses of adjustment or
 11 settlement thereof.

12 (3) With reference to life insurance policies and annuity contracts, and disability and
 13 accidental death benefits in or supplemental thereto:

14 (a) The amount of reserves on life insurance policies and annuity contracts in
 15 force, valued according to the tables of mortality, rates of interest, and
 16 methods adopted pursuant to KRS 304.6-130 to 304.6-180, inclusive.

17 (b) Reserves for disability benefits, for both active and disabled lives required by
 18 paragraph (e) of subsection (2) of KRS 304.6-140.

19 (c) Reserves for accidental death benefits, required by paragraph (f) of subsection
 20 (2) of KRS 304.6-140.

21 (d) Any additional reserves which may be required by the
 22 commissioner~~[executive-director]~~ consistent with applicable customary and
 23 general practice in insurance accounting as set forth in regulations
 24 promulgated by the commissioner~~[executive-director]~~ but no such additional
 25 reserve shall be required of any company solely for contingent liabilities
 26 which may arise under any agreement, filed with and approved by the
 27 commissioner~~[executive-director]~~, for the assumption of liability by the

1 company growing out of the acts of its exclusive agents within the course and
2 scope of their representation.

3 (4) Reserves for health insurance required by KRS 304.6-070.

4 (5) With reference to insurance other than specified in subsections (3) and (4) of this
5 section, and other than title insurance, the amount of the policy reserves computed
6 in accordance with Subtitle 6.

7 (6) Taxes, expenses and other obligations due or accrued at the date of the statement.

8 (7) Deferred tax liabilities as defined in SSAP No. 10.

9 ➔Section 998. KRS 304.6-060 is amended to read as follows:

10 As to marine and transportation insurance, the entire amount of premiums on trip risks
11 not terminated shall be deemed unearned; and the commissioner~~[executive director]~~ shall
12 require the insurer to carry a reserve equal to one hundred percent (100%) of premiums
13 on trip risks written during the month ended as of the date of statement.

14 ➔Section 999. KRS 304.6-070 is amended to read as follows:

15 For all health insurance policies the insurer shall maintain an active life reserve and an
16 actuarially determined claim reserve for unaccrued benefits which shall place a sound
17 value on its liabilities under such policies and be not less than the reserve according to
18 appropriate standards set forth in regulations issued by the commissioner~~[executive~~
19 ~~director]~~ and in no event less in the aggregate than the pro rata gross unearned premiums
20 for such policies.

21 ➔Section 1000. KRS 304.6-090 is amended to read as follows:

22 For the protection of the policyholders against loss during periods of extreme economic
23 contraction, each mortgage guaranty insurer shall maintain a liability referred to as a
24 statutory contingency reserve. The statutory contingency reserve shall be a separate fund,
25 in addition to the mortgage guaranty insurer's unearned premium reserve. The insurer
26 shall annually contribute fifty percent (50%) of the earned premiums from mortgage
27 guaranty insurance contracts to this liability, which shall be maintained for ten (10) years

1 regardless of the coverage period for which premiums were paid. Subject to the approval
 2 of the commissioner~~executive director~~, the contingency reserve may be released in any
 3 year in which actual incurred losses exceed thirty-five percent (35%) of the corresponding
 4 earned premiums. Any reductions shall be made on a first-in, first-out basis. Changes in
 5 the reserve shall be recorded directly to unassigned funds.

6 ➔Section 1001. KRS 304.6-100 is amended to read as follows:

7 (1) As to casualty insurance transacted by it, each insurer shall maintain at all times
 8 reserves in an amount estimated in the aggregate to provide for payment of all
 9 losses and claims incurred, whether reported or unreported, which are unpaid and
 10 for which the insurer may be liable, and to provide for the expenses of adjustment
 11 or settlement of losses and claims. The reserves shall be computed in accordance
 12 with regulations from time to time made by the commissioner~~executive director~~,
 13 after due notice and hearing, upon reasonable consideration of the ascertained
 14 experience and the character of such kind of business for the purpose of adequately
 15 protecting the insured and the solvency of the insurer.

16 (2) Whenever the loss and loss expense experience of the insurer show that reserves,
 17 calculated in accordance with such regulations, are inadequate, the
 18 commissioner~~executive director~~ may require the insurer to maintain additional
 19 reserves.

20 (3) The commissioner~~executive director~~ may, by regulation, prescribe the manner and
 21 form of reporting pertinent information concerning the reserves provided for in this
 22 section.

23 ➔Section 1002. KRS 304.6-130 is amended to read as follows:

24 (1) The commissioner~~executive director~~ shall annually value, or cause to be valued,
 25 the reserve liabilities, hereinafter called reserves, for all outstanding life insurance
 26 policies and annuity and pure endowment contracts of every life insurer transacting
 27 business in this state, except that in the case of an alien insurer, such valuation shall

1 be limited to its United States business; and may certify the amount of any such
 2 reserves, specifying the mortality table or tables, rate or rates of interest and
 3 methods, net leveled premium method or other, used in the calculation of such
 4 reserves. In calculating such reserves, the commissioner~~he~~ may use group
 5 methods and approximate averages for fractions of a year or otherwise. In lieu of the
 6 valuation of the reserves required of any foreign or alien insurer, the
 7 commissioner~~he~~ may accept any valuation made, or caused to be made, by the
 8 insurance supervisory official of any state or other jurisdiction when such valuation
 9 complies with the minimum standard herein provided and if the official of such
 10 state or jurisdiction accepts as sufficient and valid for all legal purposes the
 11 certificate of valuation of the commissioner~~executive director~~ when such
 12 certificate states the valuation to have been made in a specified manner according to
 13 which the aggregate reserves would be at least as large as if they had been computed
 14 in the manner prescribed by law of that state or jurisdiction. Where any such
 15 valuation is made by the commissioner~~executive director~~, the commissioner~~he~~
 16 may use the actuary of the department~~office~~ or employ an actuary for the purpose,
 17 and the reasonable compensation and expenses of the actuary, at a rate approved by
 18 the commissioner~~executive director~~, upon demand by the
 19 commissioner~~executive director~~ supported by an itemized statement of such
 20 compensation and expenses, shall be paid by the insurer. When a domestic insurer
 21 furnishes the commissioner~~executive director~~ with a valuation of its outstanding
 22 policies as computed by its own actuary or by an actuary deemed satisfactory for the
 23 purpose by the commissioner~~executive director~~, the valuation shall be verified by
 24 the actuary of the department~~office~~ without cost to the insurer.

- 25 (2) Any such insurer which at any time shall have adopted any standard of valuation
 26 producing greater aggregate reserves than those calculated according to the
 27 minimum standard herein provided may, with the approval of the

1 commissioner~~[executive director]~~, adopt any lower standard of valuation, but not
 2 lower than the minimum herein provided.

3 ➔Section 1003. KRS 304.6-140 is amended to read as follows:

4 (1) This subsection applies only to policies and contracts issued prior to January 1,
 5 1948, or such earlier date after June 13, 1944, as shall have been elected by an
 6 insurer as the date on and after which it would comply with the standard
 7 nonforfeiture law. Except as otherwise provided in paragraph (b) of subsection (2)
 8 of this section, the minimum standard for the valuation of all such policies and
 9 contracts shall be that provided by the laws in effect immediately prior to such date,
 10 except that the minimum standard for the valuation of annuities and pure
 11 endowments purchased under group annuity and pure endowment contracts issued
 12 prior to such effective date shall be that provided by the laws in effect immediately
 13 prior to such date but replacing the interest rates specified in such laws by an
 14 interest rate of five percent (5%) per annum. Reserves for all such policies and
 15 contracts may be calculated, at the option of the insurer, according to any standards
 16 which produce greater aggregate reserves for all such policies and contracts than the
 17 minimum reserves required by this subsection.

18 (2) This subsection applies only to policies and contracts issued on and after January 1,
 19 1948, or such earlier date after June 13, 1944, as shall have been elected by an
 20 insurer as the date on and after which it would comply with the standard
 21 nonforfeiture law, except as otherwise provided in paragraph (b) of this subsection
 22 for group annuity and pure endowment contracts issued prior to such date.

23 (a) Except as otherwise provided in paragraph (b) of this subsection and in KRS
 24 304.6-145, the minimum standard for the valuation of all such policies and
 25 contracts shall be the commissioners reserve valuation methods defined in
 26 KRS 304.6-150, 304.6-155, and 304.6-180, five and one-half percent (5.5%)
 27 interest for single premium life insurance policies, five percent (5%) interest

1 for group annuity and pure endowment contracts, four percent (4%) interest
 2 for all other such policies and contracts issued prior to June 17, 1978, four and
 3 one-half percent (4-1/2%) interest for such policies and contracts, other than
 4 annuity and pure endowment contracts, issued on or after June 17, 1978, and
 5 the following tables:

- 6 1. Standard ordinary mortality table. For all ordinary policies of life
 7 insurance issued on the standard basis, excluding any disability and
 8 accidental death benefits in such policies, -- the commissioners 1941
 9 standard ordinary mortality table; provided, however, that the
 10 commissioners 1958 standard ordinary mortality table shall be the table
 11 for such minimum standard for such policies issued on and after January
 12 1, 1966, or such earlier date after June 16, 1960, as shall have been
 13 elected by an insurer as the date on and after which it would use such
 14 table as the basis for minimum cash surrender values and nonforfeiture
 15 benefits under the standard nonforfeiture law and prior to the effective
 16 date of KRS 304.15-342; provided that for any category of such policies
 17 issued on female risks all modified net premiums and present values
 18 referred to in KRS 304.6-130 to 304.6-180, inclusive, may be calculated
 19 according to an age not more than six (6) years younger than the actual
 20 age of the insured; and for such policies issued on or after the effective
 21 date of KRS 304.15-342 the commissioners 1980 standard ordinary
 22 mortality table, or at the election of the company for any one (1) or more
 23 specified plans of life insurance, the commissioners 1980 standard
 24 ordinary mortality table with ten-year select mortality factors, or any
 25 ordinary mortality table, adopted after 1980 by the National Association
 26 of Insurance Commissioners, that is approved by regulation promulgated
 27 by the commissioner~~[executive-director]~~ for use in determining the

- 1 minimum standard of valuation for such policies.
- 2 2. Standard industrial mortality table. For all industrial life insurance
- 3 policies issued on the standard basis, excluding any disability and
- 4 accidental death benefits in such policies, -- the 1941 standard industrial
- 5 mortality table; provided, however, that the commissioners 1961
- 6 standard industrial mortality table shall be the table for such minimum
- 7 standard for such policies issued on and after January 1, 1968, or such
- 8 earlier date after June 14, 1962, as shall have been elected by the insurer
- 9 as the date on and after which it would use such table as the basis for
- 10 minimum cash surrender values and nonforfeiture benefits under the
- 11 standard nonforfeiture law or any industrial mortality table, adopted after
- 12 1980 by the National Association of Insurance Commissioners, that is
- 13 approved by regulation promulgated by the commissioner~~executive~~
- 14 ~~director~~] for use in determining the minimum standard of valuation for
- 15 such policies.
- 16 3. Individual annuity mortality table or annuity mortality table. For
- 17 individual annuity and pure endowment contracts, excluding any
- 18 disability and accidental death benefits in such policies -- the 1937
- 19 standard annuity mortality table or, at the option of the insurer, the
- 20 annuity mortality table for 1949, ultimate, or any modification of either
- 21 of these tables approved by the commissioner~~executive director~~].
- 22 4. Group annuity mortality table. For group annuity and pure endowment
- 23 contracts, excluding any disability and accidental death benefits in such
- 24 policies -- the group annuity mortality table for 1951, any modification
- 25 of such table approved by the commissioner~~executive director~~], or, at
- 26 the option of the insurer, any of the tables or modifications of tables
- 27 specified for individual annuity and pure endowment contracts.

- 1 5. Disability table. For total and permanent disability benefits in or
2 supplementary to ordinary policies or contracts on active and disabled
3 lives -- for policies or contracts issued on or after January 1, 1966, the
4 tables of period 2 disablement rates and the 1930 to 1950 termination
5 rates of the 1952 disability study of the society of actuaries, with due
6 regard to the type of benefit or any tables of disablement rates and
7 termination rates, adopted after 1980 by the National Association of
8 Insurance Commissioners, that are approved by regulation promulgated
9 by the commissioner~~{executive-director}~~ for use in determining the
10 minimum standard of valuation for such policies; for policies or
11 contracts issued on or after January 1, 1961 and prior to January 1, 1966,
12 either such tables or, at the option of the insurer, the class (3) disability
13 table (1926), and for policies issued prior to January 1, 1961, the class
14 (3) disability table (1926). In addition, any such table shall, for active
15 lives, be combined with a mortality table permitted for calculating the
16 reserves for life insurance policies.
- 17 6. Accidental death mortality table. For accidental death benefits in or
18 supplementary to policies -- for policies issued on or after January 1,
19 1966, the 1959 accidental death benefits table or any accidental death
20 benefits table, adopted after 1980 by the National Association of
21 Insurance Commissioners, that is approved by regulation promulgated
22 by the commissioner~~{executive-director}~~ for use in determining the
23 minimum standard of valuation for such policies; for policies issued on
24 or after January 1, 1961 and prior to January 1, 1966, either such table
25 or, at the option of the insurer, the inter-company double indemnity
26 mortality table; and for policies issued prior to January 1, 1961, the
27 inter-company double indemnity mortality table. Any such table shall be

combined with a mortality table permitted for calculating the reserves for life insurance policies.

7. Group life and other tables. For group life insurance, life insurance issued on the substandard basis and other special benefits -- such tables as may be approved by the commissioner~~[executive director]~~.

(b) Except as provided in KRS 304.6-145, the minimum standard for the valuation of all individual annuity and pure endowment contracts issued prior to January 1, 1979, excluding any disability and accidental death benefits in such contracts, shall be the commissioners reserve valuation methods defined in KRS 304.6-150 and 304.6-155, six percent (6%) interest for single premium immediate annuity contracts and four percent (4%) interest for all other contracts, and the 1971 individual annuity mortality table, or any modification of this table approved by the commissioner~~[executive director]~~.

1. The minimum standard for the valuation of all annuities and pure endowments purchased prior to January 1, 1979, under group annuity and pure endowment contracts, excluding any disability and accidental death benefits in such contracts, shall be the commissioners reserve valuation methods defined in KRS 304.6-150 and 304.6-155, six percent (6%) interest, and the 1971 group annuity mortality table, or any modification of this table approved by the commissioner~~[executive director]~~.

2. The minimum standard for the valuation of all individual annuity and pure endowment contracts issued on or after January 1, 1979, excluding any disability and accidental death benefits in such contracts, shall be the commissioners reserve valuation methods defined in KRS 304.6-150 and 304.6-155, seven and one-half percent (7-1/2%) interest for single premium immediate annuity contracts, five and one-half percent (5-

1/2%) interest for single premium deferred annuity and pure endowment contracts and four and one-half percent (4-1/2%) interest for all other individual annuity and pure endowment contracts, and the 1971 individual annuity mortality table, or any individual annuity mortality table adopted after 1980 by the National Association of Insurance Commissioners, that is approved by regulation promulgated by the commissioner~~[executive director]~~ for use in determining the minimum standards of valuation for such contracts, or any modification of these tables approved by the commissioner~~[executive director]~~.

3. The minimum standard for the valuation of all annuities and pure endowments purchased on or after January 1, 1979 under group annuity and pure endowment contracts, excluding any disability and accidental death benefits in such contracts, shall be the commissioners reserve valuation methods defined in KRS 304.6-150 and 304.6-155, seven and one-half percent (7-1/2%) interest, and the 1971 group annuity mortality table, or any group annuity mortality table, adopted after 1980 by the National Association of Insurance Commissioners, that is approved by regulation promulgated by the commissioner~~[executive director]~~ for use in determining the minimum standards of valuation for such contracts, or any modification of these tables approved by the commissioner~~[executive director]~~.

4. The minimum standard for the valuation of all individual annuity and pure endowment contracts issued on or after July 1, 1976, and prior to January 1, 1979, and of all annuities and pure endowments purchased on or after July 1, 1976, and prior to January 1, 1979, under group annuity and pure endowment contracts, excluding any disability and accidental death benefits in such contracts, shall be the standard specified in this

paragraph, or, at the option of the insurer with respect to any such contracts or purchases, the standard specified in paragraph (a) of this subsection.

➔ Section 1004. KRS 304.6-145 is amended to read as follows:

(1) The interest rates used in determining the minimum standard for the valuation of:

(a) All life insurance policies issued in a particular calendar year, on or after the effective date of KRS 304.15-342;

(b) All individual annuity and pure endowment contracts issued in a particular calendar year on or after January 1, 1983;

(c) All annuities and pure endowments purchased in a particular calendar year on or after January 1, 1983 under group annuity and pure endowment contracts; and

(d) The net increase, if any, in a particular calendar year after January 1, 1983, in amounts held under guaranteed interest contracts shall be the calendar year statutory valuation interest rates as defined in this section.

(2) The calendar year statutory valuation interest rates, I , shall be determined as follows and the results rounded to the nearer one-quarter of one percent ($1/4$ of 1%):

(a) For life insurance,

$$I = .03 + W (R_1 - .03) + W/2 (R_2 - .09);$$

(b) For single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and from guaranteed interest contracts with cash settlement options,

$$I = .03 + W (R - .03)$$

where R_1 is the lesser of R and .09,

R_2 is the greater of R and .09,

R is the reference interest rate defined in this section,

and W is the weighting factor defined in this section,

1 (c) For other annuities with cash settlement options and guaranteed interest
2 contracts with cash settlement options, valued on an issue year basis, except as
3 stated in paragraph (b) above, the formula for life insurance stated in
4 paragraph (a) above shall apply to annuities and guaranteed interest contracts,
5 with guarantee durations in excess of ten (10) years and the formula for single
6 premium immediate annuities stated in paragraph (b) above shall apply to
7 annuities and guaranteed interest contracts with guarantee duration of ten (10)
8 years or less;

9 (d) For other annuities with no cash settlement options and for guaranteed interest
10 contracts with no cash settlement options, the formula for single premium
11 immediate annuities stated in paragraph (b) above shall apply;

12 (e) For other annuities with cash settlement options and guaranteed interest
13 contracts with cash settlement options, valued on a change in fund basis, the
14 formula for single premium immediate annuities stated in paragraph (b) above
15 shall apply.

16 However, if the calendar year statutory valuation interest rate for any life
17 insurance policies issued in any calendar year determined without reference to
18 this sentence differs from the corresponding actual rate for similar policies
19 issued in the immediately preceding calendar year by less than one-half of one
20 percent ($1/2$ of 1%), the calendar year statutory valuation interest rate for such
21 life insurance policies shall be equal to the corresponding actual rate for the
22 immediately preceding calendar year. For purposes of applying the
23 immediately preceding sentence, the calendar year statutory valuation interest
24 rate for life insurance policies issued in a calendar year shall be determined for
25 1980 (using the reference interest rate defined for 1979) and shall be
26 determined for each subsequent calendar year regardless of when KRS
27 304.15-342 becomes effective.

(3) The weighting factors referred to in the formulas stated above are given in the following tables:

(a) Weighting Factors for Life Insurance:

Guarantee Duration	Weighting Factors
(Years)	
10 or less	.50
More than 10, but not	
more than 20	.45
More than 20	.35

For life insurance, the guarantee duration is the maximum number of years the life insurance can remain in force on a basis guaranteed in the policy or under options to convert to plans of life insurance with premium rates or nonforfeiture values or both which are guaranteed in the original policy;

(b) Weighting factor for single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and guaranteed interest contracts with cash settlement options:

.80

(c) Weighting factors for other annuities and for guaranteed interest contracts, except as stated in (b) above, shall be as specified in tables 1., 2., and 3. below, according to the rules and definitions in 4., 5., and 6. below:

1. For annuities and guaranteed interest contracts valued on an issue year basis:

Guarantee Duration	Weighting Factor for Plan Type		
(Years)	A	B	C
5 or less:	.80	.60	.50
More than 5, but not			

1	more than 10	.75	.60	.50
2	More than 10, but not			
3	more than 20:	.65	.50	.45
4	More than 20:	.45	.35	.35

2. For annuities and guaranteed interest contracts valued on a change in fund basis, the factors shown in 1. above increased by:

7	Plan Type		
8	A	B	C
9	.15	.25	.05

3. For annuities and guaranteed interest contracts valued on an issue year basis (other than those with no cash settlement options) which do not guarantee interest on considerations received more than one (1) year after issue or purchase and for annuities and guaranteed interest contracts valued on a change in fund basis which do not guarantee interest rates on considerations received more than twelve (12) months beyond the valuation date, the factors shown in 1. or derived in 2. increased by:

18	Plan Type		
19	A	B	C
20	.05	.05	.05

4. For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, the guarantee duration is the number of years for which the contract guarantees interest rates in excess of the calendar year statutory valuation interest rate for life insurance policies with guarantee duration in excess of twenty (20) years. For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the

1 guarantee duration is the number of years from the date of issue or date
2 of purchase to the date annuity benefits are scheduled to commence.

3 5. Plan type as used in the above tables is defined as follows:

4 Plan Type A: At any time policyholder may withdraw funds only with an
5 adjustment to reflect changes in interest rates or asset values since
6 receipt of the funds by the insurer, or without such adjustment but
7 in installments over five (5) years or more, or as an immediate life
8 annuity, or no withdrawal permitted.

9 Plan Type B: Before expiration of the interest rate guarantee, policyholder
10 may withdraw funds only with an adjustment to reflect changes in
11 interest rates or asset values since receipt of the funds by the
12 insurer, or without such adjustment but in installments over five
13 (5) years or more, or no withdrawal permitted. At the end of interest
14 rate guarantee, funds may be withdrawn without such adjustment
15 in a single sum or installments over less than five (5) years.

16 Plan Type C: Policyholder may withdraw funds before expiration of interest
17 rate guarantee in a single sum or installments over less than five
18 (5) years either without adjustment to reflect changes in interest rates
19 or asset values since receipt of the funds by the insurer, or subject
20 only to a fixed surrender charge stipulated in the contract as a
21 percentage of the fund.

22 6. An insurer may elect to value guaranteed interest contracts with cash
23 settlement options and annuities with cash settlement options on either
24 an issue year basis or on a change in fund basis. Guaranteed interest
25 contracts with no cash settlement options and other annuities with no
26 cash settlement options must be valued on an issue year basis. As used
27 in this section, an issue year basis of valuation refers to a valuation basis

1 under which the interest rate used to determine the minimum valuation
2 standard applicable to each change in the fund held under the annuity or
3 guaranteed interest contract is the calendar year valuation interest rate
4 for the year of the change in the fund.

5 (4) The reference interest rate referred to in subsection (2) of this section shall be
6 defined as follows:

7 (a) For all life insurance, the lesser of the average over a period of thirty-six (36)
8 months and the average over a period of twelve (12) months, ending on June
9 30 of the calendar year next preceding the year of issue, of Moody's Corporate
10 Bond Yield Average - Monthly Average Corporates, as published by Moody's
11 Investors Service, Inc.

12 (b) For single premium immediate annuities and for annuity benefits involving
13 life contingencies arising from other annuities with cash settlement options
14 and guaranteed interest contracts with cash settlement options, the average
15 over a period of twelve (12) months, ending on June 30 of the calendar year of
16 issue or year of purchase, of Moody's Corporate Bond Yield Average -
17 Monthly Average Corporates, as published by Moody's Investors Service, Inc.

18 (c) For other annuities with cash settlement options and guaranteed interest
19 contracts with cash settlement options, valued on a year of issue basis, except
20 as stated in paragraph (b) above, with guarantee duration in excess of ten (10)
21 years, the lesser of the average over a period of thirty-six (36) months and the
22 average over a period of twelve (12) months, ending on June 30 of the
23 calendar year of issue or purchase, of Moody's Corporate Bond Yield Average
24 - Monthly Average Corporates, as published by Moody's Investors Service,
25 Inc.

26 (d) For other annuities with cash settlement options and guaranteed interest
27 contracts with cash settlement options, valued on a year of issue basis, except

as stated in paragraph (b) above, with guarantee duration of ten (10) years or less, the average over a period of twelve (12) months, ending on June 30 of the calendar year of issue or purchase, of Moody's Corporate Bond Yield Average - Monthly Average Corporates, as published by Moody's Investors Service, Inc.

(e) For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the average over a period of twelve (12) months, ending on June 30 of the calendar year of issue or purchase, of Moody's Corporate Bond Yield Average - Monthly Average Corporates, as published by Moody's Investors Service, Inc.

(f) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a change in fund basis, except as stated in paragraph (b) above, the average over a period of twelve (12) months, ending on June 30 of the calendar year of the change in the fund, of Moody's Corporate Bond Yield Average - Monthly Average Corporates, as published by Moody's Investors Service, Inc.

(5) In the event that Moody's Corporate Bond Yield Average - Monthly Average Corporates is no longer published by Moody's Investors Service, Inc., or in the event that the National Association of Insurance Commissioners determines that Moody's Corporate Bond Yield Average - Monthly Average Corporates as published by Moody's Investors Service, Inc. is no longer appropriate for the determination of the reference interest rate, then an alternative method for determination of the reference interest rate, which is adopted by the National Association of Insurance Commissioners and approved by regulation promulgated by the commissioner~~{executive director}~~, may be substituted.

➔Section 1005. KRS 304.6-170 is amended to read as follows:

(1) Reserves for any category of policies, contracts, or benefits as established by the

1 commissioner~~executive director~~, which are subject to subsection (2) of KRS
 2 304.6-140, may be calculated, at the option of the insurer, according to any
 3 standards which produce greater aggregate reserves for such category than those
 4 calculated according to the minimum standard herein provided, but the rate or rates
 5 of interest used for policies and contracts, other than annuity and pure endowment
 6 contracts, shall not be higher than the corresponding rate or rates of interest used in
 7 calculating any nonforfeiture benefits provided for therein.

- 8 (2) Any such company which at any time shall have adopted any standard of valuation
 9 producing greater aggregate reserves than those calculated according to the
 10 minimum standard herein provided may, with the approval of the
 11 commissioner~~executive director~~, adopt any lower standard of valuation, but not
 12 lower than the minimum herein provided; provided, however, that for the purposes
 13 of this section, the holding of additional reserves previously determined by a
 14 qualified actuary to be necessary to render the opinion requested by KRS 304.6-171
 15 shall not be deemed to be the adoption of a higher standard of valuation.

16 ➔Section 1006. KRS 304.6-171 is amended to read as follows:

- 17 (1) This section shall become operative at the end of the first full calendar year
 18 following the year of enactment.
- 19 (2) Every life insurance company doing business in this state shall annually submit the
 20 opinion of a qualified actuary as to whether the reserves and related actuarial items
 21 held in support of the policies and contracts specified by the
 22 commissioner~~executive director~~ by administrative regulation are computed
 23 appropriately, are based on assumptions which satisfy contractual provisions, are
 24 consistent with prior reported amounts, and comply with applicable laws of this
 25 state. The commissioner~~executive director~~ by administrative regulation shall
 26 define the specifics of this opinion and add any other items deemed to be necessary
 27 to its scope.

1 (3) (a) Every life insurance company, except as exempted by or pursuant to
 2 administrative regulation, shall also annually include in the opinion required
 3 by subsection (2) of this section, an opinion of the same qualified actuary as to
 4 whether the reserves and related actuarial items held in support of the policies
 5 and contracts specified by the commissioner~~executive director~~ by
 6 administrative regulation, when considered in light of the assets held by the
 7 company with respect to the reserves and related actuarial items, including but
 8 not limited to the investment earnings on the assets and the considerations
 9 anticipated to be received and retained under the policies and contracts, make
 10 adequate provision for the company's obligations under the policies and
 11 contracts, including but not limited to the benefits under and expenses
 12 associated with the policies and contracts.

13 (b) The commissioner~~executive director~~ may provide by administrative
 14 regulation for a transition period for establishing any higher reserves which
 15 the qualified actuary may deem necessary in order to render the opinion
 16 required by this section.

17 (4) Each opinion required by subsection (2) of this section shall be governed by the
 18 following provisions:

19 (a) A memorandum, in form and substance acceptable to the
 20 commissioner~~executive director~~ as specified by administrative regulation,
 21 shall be prepared to support each actuarial opinion.

22 (b) If the insurance company fails to provide a supporting memorandum at the
 23 request of the commissioner~~executive director~~ within a period specified by
 24 administrative regulation or the commissioner~~executive director~~ determines
 25 that the supporting memorandum provided by the insurance company fails to
 26 meet the standards prescribed by the administrative regulations or is otherwise
 27 unacceptable to the commissioner~~executive director~~, the

1 commissioner~~[executive director]~~ may engage a qualified actuary at the
 2 expense of the company to review the opinion and the basis for the opinion
 3 and prepare the supporting memorandum as is required by the
 4 commissioner~~[executive director]~~.

5 (5) Every opinion shall be governed by the following provisions:

6 (a) The opinion shall be submitted with the annual statement reflecting the
 7 valuation of reserve liabilities for each year ending on or after December 31,
 8 1996.

9 (b) The opinion shall apply to business in force including individual and group
 10 health insurance plans, in form and substance acceptable to the
 11 commissioner~~[executive director]~~ as specified by administrative regulation.

12 (c) The opinion shall be based on standards adopted from time to time by the
 13 Actuarial Standards Board and on such additional standards as the
 14 commissioner~~[executive director]~~ may by administrative regulation prescribe.

15 (d) In the case of an opinion required to be submitted by a foreign or alien
 16 company, the commissioner~~[executive director]~~ may accept the opinion filed
 17 by that company with the insurance supervisory official of another state if the
 18 commissioner~~[executive director]~~ determines that the opinion reasonably
 19 meets the requirements applicable to a company domiciled in this state.

20 (e) For the purposes of this section, "qualified actuary" means a member in good
 21 standing of the American Academy of Actuaries who meets the requirements
 22 set forth in administrative regulations.

23 (f) Except in cases of fraud or willful misconduct, the qualified actuary shall not
 24 be liable for damages to any person, other than the insurance company and the
 25 commissioner~~[executive director]~~, for any act, error, omission, decision, or
 26 conduct with respect to the actuary's opinion.

27 (g) Disciplinary action by the commissioner~~[executive director]~~ against the

1 company or the qualified actuary shall be defined in administrative regulations
 2 by the commissioner~~[executive director]~~.

- 3 (h) Any memorandum in support of the opinion, and any other material provided
 4 by the company to the commissioner~~[executive director]~~ in connection
 5 therewith, shall be kept confidential by the commissioner~~[executive director]~~
 6 and shall not be made public and shall not be subject to subpoena, other than
 7 for the purpose of defending an action seeking damages from any person by
 8 reason of any action required by this section or by administrative regulations
 9 promulgated hereunder. The memorandum or other material may otherwise be
 10 released by the commissioner~~[executive director]~~ with the written consent of
 11 the company or to the American Academy of Actuaries upon request stating
 12 that the memorandum or other material is required for the purpose of
 13 professional disciplinary proceedings and setting forth procedures satisfactory
 14 to the commissioner~~[executive director]~~ for preserving the confidentiality of
 15 the memorandum or other material. Once any portion of the confidential
 16 memorandum is cited by the company in its marketing, or is cited before any
 17 governmental agency other than a state insurance department or office, or is
 18 released by the company to the news media, all portions of the confidential
 19 memorandum shall be no longer confidential.

20 ➔Section 1007. KRS 304.6-190 is amended to read as follows:

- 21 (1) A mortgage loan shall not be made or acquired by a domestic insurer unless an
 22 appraisal has been made by a competent appraiser for the purpose of the investment
 23 which meets the following requirements:
- 24 (a) The appraisal shall be made prior to the date that the insurer commits to make
 25 the investment;
- 26 (b) The appraisal shall be written and shall state an opinion of value as of a
 27 specific date, supported by presentation and analysis of relevant market

1 material;

2 (c) The appraisal shall provide the current fair market value of the real estate, that
3 is the value of the real estate in an arms-length sale as of the date of the
4 appraisal; and

5 (d) The appraisal shall be reviewed and signed by a principal of the firm. The
6 principal shall be a specific individual having appraisal experience with the
7 property type, and shall be accountable for the conclusions contained in the
8 report.

9 (2) Appraisers conducting appraisals pursuant to this section shall not be compensated,
10 directly or indirectly, on the basis of the outcome of the appraisal performed and
11 shall have direct reporting access to the chief investment officer of the insurer.

12 (3) The department~~{office}~~ may contract with qualified appraisers to conduct appraisals
13 if an insurer fails to have appraisals done pursuant to this section. All costs for the
14 services of an appraiser pursuant to this subsection shall be borne by the insurer.

15 (4) All appraisals shall be placed in the appropriate real estate mortgage loan file, and
16 shall be subject to evaluation by the department~~{office}~~.

17 (5) The department~~{office}~~ shall randomly select a number of appraisals from each
18 domestic insurer with a mortgage loan portfolio and evaluate the quality of the
19 appraisal. The evaluation shall be done annually and the number of appraisals
20 reviewed shall be determined by the department~~{office}~~.

21 ➔Section 1008. KRS 304.7-012 is amended to read as follows:

22 As used in this subtitle:

23 (1) "Acceptable collateral" means:

24 (a) As to securities lending transactions, and for the purpose of calculating
25 counterparty exposure amount, cash, cash equivalents, letter of credit, direct
26 obligations of, or securities that are fully guaranteed as to principal and
27 interest by, the government of the United States, any agency of the United

1 States, the Federal National Mortgage Association, or the Federal Home Loan
 2 Mortgage Corporation, and as to lending foreign securities, sovereign debt
 3 rated 1 by the SVO;

4 (b) As to repurchase transactions, cash, cash equivalents, direct obligations of, or
 5 securities that are fully guaranteed as to principal and interest by, the
 6 government of the United States, any agency of the United States, the Federal
 7 National Mortgage Association, or the Federal Home Loan Mortgage
 8 Corporation; and

9 (c) As to reverse repurchase transactions, cash and cash equivalents.

10 (2) "Acceptable private mortgage insurance" means insurance written by a private
 11 insurer protecting a mortgage lender against loss occasioned by a mortgage loan
 12 default and issued by a licensed mortgage insurance company, with an SVO 1
 13 designation or a rating issued by a nationally recognized statistical rating
 14 organization equivalent to an SVO 1 designation, that covers losses to an eighty
 15 percent (80%) loan-to-value ratio.

16 (3) "Accident and health insurance" means protection that provides payment of benefits
 17 for covered sickness or accidental injury, excluding credit insurance, disability
 18 insurance, accidental death and dismemberment insurance, and long-term care
 19 insurance.

20 (4) "Accident and health insurer" means a licensed life or health insurer or health
 21 service corporation whose insurance premiums and required statutory reserves for
 22 accident and health insurance constitute at least ninety-five percent (95%) of total
 23 premium considerations or total statutory required reserves, respectively.

24 (5) "Admitted assets" means assets permitted to be reported as admitted assets in
 25 accordance with Subtitle 6 of KRS Chapter 304 on the statutory financial statement
 26 of the insurer most recently required to be filed with the commissioner~~executive~~
 27 ~~director~~, but excluding assets of separate accounts.

- 1 (6) "Affiliate" means, as to any person, another person that, directly or indirectly
2 through one (1) or more intermediaries, controls, is controlled by, or is under
3 common control with the person.
- 4 (7) "Asset-backed security" means a security or other instrument, excluding a mutual
5 fund, evidencing an interest in, or the right to receive payments from, or payable
6 from distributions on, an asset, a pool of assets, or specifically divisible cash flows
7 that are legally transferred to a trust or another special purpose bankruptcy-remote
8 business entity, on the following conditions:
- 9 (a) The trust or other business entity is established solely for the purpose of
10 acquiring specific types of assets or rights to cash flows, issuing securities and
11 other instruments representing an interest in or right to receive cash flows
12 from those assets or rights, and engaging in activities required to service the
13 assets or rights and any credit enhancement or support features held by the
14 trust, or other business entity; and
- 15 (b) The assets of the trust or other business entity consist solely of interest bearing
16 obligations or other contractual obligations representing the right to receive
17 payment from the cash flows from the assets or rights. However, the existence
18 of credit enhancement, such as letters of credit or guarantees, or support
19 features such as swap agreements, shall not cause a security or other
20 instrument to be ineligible as an asset-backed security.
- 21 (8) "Business entity" includes a sole proprietorship, corporation, limited liability
22 company, association, partnership, joint stock company, joint venture, mutual fund,
23 trust, joint tenancy, or other similar form of business organization, whether
24 organized for profit or not-for-profit.
- 25 (9) "Cap" means an agreement obligating the seller to make payments to the buyer, with
26 each payment based on the amount by which a reference price, level, or the
27 performance or value of one (1) or more underlying interests exceeds a

- 1 predetermined number, sometimes called the strike rate or strike price.
- 2 (10) "Capital and surplus" means the sum of the capital and surplus of the insurer
 3 required to be shown on the statutory financial statement of the insurer most
 4 recently required to be filed with the commissioner~~[executive director]~~.
- 5 (11) "Cash equivalents" means short-term, highly rated, and highly liquid investments or
 6 securities readily convertible to known amounts of cash without penalty and so near
 7 maturity that they present insignificant risk of change in value. Cash equivalents
 8 include government money market mutual funds and class one money market
 9 mutual funds. For purposes of this definition:
- 10 (a) "Short-term" means investments with a remaining term to maturity of ninety
 11 (90) days or less; and
- 12 (b) "Highly rated" means an investment rated P-1 by Moody's Investors Service,
 13 Inc., or A-1 by Standard and Poor's division of The McGraw-Hill Companies,
 14 Inc. or its equivalent rating by a nationally recognized statistical rating
 15 organization recognized by the SVO.
- 16 (12) "Class one bond mutual fund" means a mutual fund that at all times qualifies for
 17 investment using the bond class one reserve factor under the Purposes and
 18 Procedures of the Securities Valuation Office, or any successor publication.
- 19 (13) "Class one money market mutual fund" means a money market mutual fund that at
 20 all times qualifies for investment using the bond class one reserve factor under the
 21 Purposes and Procedures of the Securities Valuation Office, or any successor
 22 publication.
- 23 (14) "Code" means KRS Chapter 304 and all administrative regulations promulgated as
 24 authorized.
- 25 (15) "Collar" means an agreement to receive payments as the buyer of an option, cap, or
 26 floor and to make payment as the seller of a different option, cap, or floor.
- 27 (16) "Commercial mortgage loan" means a loan secured by a mortgage, other than a

1 residential mortgage loan.

2 (17) "Construction loan" means a loan of less than three (3) years in term, made for
3 financing the cost of construction of a building or other improvement to real estate,
4 that is secured by the real estate.

5 (18) "Control" means the possession, directly or indirectly, of the power to direct, or
6 cause the direction of the management and policies of a person, whether through the
7 ownership of voting securities, by contract other than a commercial contract for
8 goods or nonmanagement services, or otherwise, unless the power is the result of an
9 official position with or corporate office held by the person. Control shall be
10 presumed to exist if a person, directly or indirectly, owns, controls, holds with the
11 power to vote, or holds proxies representing ten percent (10%) or more of the
12 voting securities of another person. This presumption may be rebutted by a showing
13 that control does not exist in fact. The commissioner~~[executive-director]~~ may
14 determine, after furnishing all interested persons notice and an opportunity to be
15 heard and making specific findings of fact to support the determination, that control
16 exists in fact, notwithstanding the absence of a presumption to that effect.

17 (19) "Counterparty exposure amount" means:

18 (a) The net amount of credit risk attributable to a derivative instrument entered
19 into with a business entity other than through a qualified exchange, qualified
20 foreign exchange, or cleared through a qualified clearinghouse ("over-the-
21 counter derivative instrument"). The amount of credit risk equals:

- 22 1. The market value of the over-the-counter derivative instrument if the
23 liquidation of the derivative instrument would result in a final cash
24 payment to the insurer; or
- 25 2. Zero (0) if the liquidation of the derivative instrument would not result
26 in a final cash payment to the insurer.

27 (b) If over-the-counter derivative instruments are entered into under a written

1 master agreement that provides for netting of payments owed by the respective
 2 parties, and the domiciliary jurisdiction of the counterparty is either within the
 3 United States or if not within the United States, within a foreign jurisdiction
 4 listed in the Purposes and Procedures of the Securities Valuation Office as
 5 eligible for netting, the net amount of credit risk shall be the greater of zero
 6 (0) or the net sum of:

- 7 1. The market value of the over-the-counter derivative instruments entered
 8 into under the agreement, the liquidation of which would result in a final
 9 cash payment to the insurer; and
- 10 2. The market value of the over-the-counter derivative instruments entered
 11 into under the agreement, the liquidation of which would result in a final
 12 cash payment by the insurer to the business entity.

13 (c) For open transactions, market value shall be determined at the end of the most
 14 recent quarter of the insurer's fiscal year and shall be reduced by the market
 15 value of acceptable collateral held by the insurer or placed in escrow by one
 16 (1) or both parties.

17 (20) "Covered" means that an insurer owns or can immediately acquire, through the
 18 exercise of options, warrants, or conversion rights already owned, the underlying
 19 interest in order to fulfill or secure its obligations under a call option, cap, or floor it
 20 has written, or has set aside under a custodial or escrow agreement, cash, or cash
 21 equivalents with a market value equal to the amount required to fulfill its
 22 obligations under a put option it has written, in an income generation transaction.

23 (21) "Credit tenant loan" means a mortgage loan that is made primarily in reliance on the
 24 credit standing of a major tenant, structured with an assignment of the rental
 25 payments to the lender with real estate pledged as collateral in the form of a first
 26 lien.

27 (22) (a) "Derivative instrument" means an agreement, option, instrument, a series, or

1 combination thereof:

- 2 1. To make or take delivery of, or assume or relinquish, a specified amount
- 3 of one (1) or more underlying interests, or to make a cash settlement in
- 4 lieu thereof; or
- 5 2. That has a price, performance, value, or cash flow based primarily upon
- 6 the actual or expected price, level, performance, value, or cash flow of
- 7 one (1) or more underlying interests.

8 (b) Derivative instruments include options, warrants used in a hedging transaction
 9 and not attached to another financial instrument, caps, floors, collars, swaps,
 10 forwards, futures, any other agreements, options, or instruments substantially
 11 similar thereto, or any series or combination thereof, and any agreements,
 12 options, or instruments permitted under administrative regulations
 13 promulgated under KRS 304.7-367. Derivative instruments shall not include
 14 an investment authorized by KRS 304.7-365, 304.7-367, 304.7-401, 304.7-
 15 403, 304.7-405, 304.7-407, 304.7-409, 304.7-411, 304.7-413, 304.7-415,
 16 304.7-417, 304.7-421, 304.7-459, 304.7-461, 304.7-463, 304.7-465, 304.7-
 17 467, and 304.7-469.

18 (23) "Derivative transaction" means a transaction involving the use of one (1) or more
 19 derivative instruments.

20 (24) "Direct" or "directly", when used in connection with an obligation, means that the
 21 designated obligor is primarily liable on the instrument representing the obligation.

22 (25) "Dollar roll transaction" means two (2) simultaneous transactions with different
 23 settlement dates no more than ninety-six (96) days apart, so that in the transaction
 24 with the earlier settlement date, an insurer sells to a business entity, and in the other
 25 transaction the insurer is obligated to purchase from the same business entity,
 26 substantially similar securities of the following types:

27 (a) Asset-backed securities issued, assumed, or guaranteed by the Government

1 National Mortgage Association, the Federal National Mortgage Association,
 2 the Federal Home Loan Mortgage Corporation, or their respective successors;
 3 and

4 (b) Other asset-back securities referred to in Section 106 of Title I of the
 5 Secondary Mortgage Market Enhancement Act of 1984 (15 U.S.C. sec. 77r-1),
 6 as amended.

7 (26) "Domestic jurisdiction" means the United States, Canada, any state, any province of
 8 Canada, or any political subdivision of any of the foregoing.

9 (27) "Equity interest" means any of the following that are not rated credit instruments:

10 (a) Common stock;

11 (b) Preferred stock;

12 (c) Trust certificate;

13 (d) Equity investment in an investment company other than a money market
 14 mutual fund or a class one bond mutual fund;

15 (e) Investment in a common trust fund of a bank regulated by a federal or state
 16 agency;

17 (f) An ownership interest in mineral, oil, or gas, the rights to which have been
 18 separated from the underlying fee interest in the real estate where the mineral,
 19 oil, or gas are located;

20 (g) Instruments that are mandatorily, or at the option of the issuer, convertible to
 21 equity;

22 (h) Limited partnership interests and those general partnership interests
 23 authorized under KRS 304.7-363(4);

24 (i) Member interests in limited liability companies;

25 (j) Warrants or other rights to acquire equity interests that are created by the
 26 person that owns or would issue the equity to be acquired; or

27 (k) Instruments that would be rated credit instruments except for the provisions of

1 subsection (70)(b) of this section.

2 (28) "Equivalent securities" means:

3 (a) In a securities lending transaction, securities that are identical to the loaned
4 securities in all features including the amount of the loaned securities, except
5 as to certificate number if held in physical form, but if any different security
6 shall be exchanged for a loaned security by recapitalization, merger,
7 consolidation, or other corporate action, the different security shall be deemed
8 to be the loaned security;

9 (b) In a repurchase transaction, securities that are identical to the purchased
10 securities in all features including the amount of the purchased securities,
11 except as to the certificate number if held in physical form; or

12 (c) In a reverse repurchase transaction, securities that are identical to the sold
13 securities in all features including the amount of the sold securities, except as
14 to the certificate number if held in physical form.

15 (29) "Floor" means an agreement obligating the seller to make payments to the buyer in
16 which each payment is based on the amount by which a predetermined number,
17 sometimes called the floor rate or price, exceeds a reference price, level,
18 performance, or value of one (1) or more underlying interests.

19 (30) "Foreign currency" means a currency other than that of a domestic jurisdiction.

20 (31) (a) "Foreign investment" means an investment in a foreign jurisdiction, or an
21 investment in a person, real estate, or asset domiciled in a foreign jurisdiction,
22 that is substantially of the same type as those eligible for investment under this
23 subtitle, other than KRS 304.7-417 and 304.7-469. An investment shall not be
24 deemed to be foreign if the issuing person, qualified primary credit source, or
25 qualified guarantor is a domestic jurisdiction or a person domiciled in a
26 domestic jurisdiction, unless:

27 1. The issuing person is a shell business entity; and

1 2. The investment is not assumed, accepted, guaranteed, insured, or
 2 otherwise backed by a domestic jurisdiction or a person that is not a
 3 shell business entity, domiciled in a domestic jurisdiction.

4 (b) For purposes of this definition:

5 1. "Shell business entity" means a business entity having no economic
 6 substance, except as a vehicle for owning interests in assets issued,
 7 owned, or previously owned by a person domiciled in a foreign
 8 jurisdiction;

9 2. "Qualified guarantor" means a guarantor against which an insurer has a
 10 direct claim for full and timely payment, evidenced by a contractual
 11 right for which an enforcement action can be brought in a domestic
 12 jurisdiction; and

13 3. "Qualified primary credit source" means the credit source to which an
 14 insurer looks for payment as in an investment and against which an
 15 insurer has a direct claim for full and timely payment, evidenced by a
 16 contractual right for which an enforcement action can be brought in a
 17 domestic jurisdiction.

18 (32) "Foreign jurisdiction" means a jurisdiction other than a domestic jurisdiction.

19 (33) "Forward" means an agreement other than a future, to make, take delivery of, or
 20 effect a cash settlement based on the actuarial or expected price, level, performance,
 21 or value of one (1) or more underlying interests.

22 (34) "Future" means an agreement, traded on a qualified exchange or qualified foreign
 23 exchange, to make, take delivery of, or effect a cash settlement based on the actual
 24 or expected price, level, performance, or value of one (1) or more underlying
 25 interest.

26 (35) "Government money market mutual fund" means a money market mutual fund that
 27 at all times:

1 (a) Invests only in obligations issued, guaranteed, or insured by the federal
 2 government of the United States or collateralized repurchase agreements
 3 composed of these obligations; and

4 (b) Qualifies for investment without a reserve under the Purposes and Procedures
 5 of the Securities Valuation Office or any successor publication.

6 (36) "Government sponsored enterprise" means a:

7 (a) Governmental agency; or

8 (b) Corporation, limited liability company, association, partnership, joint stock
 9 company, joint venture, trust, or other entity or instrumentality organized
 10 under the laws of any domestic jurisdiction to accomplish a public policy or
 11 other governmental purpose.

12 (37) "Guaranteed or insured", when used in connection with an obligation acquired
 13 under this subtitle, means that the guarantor or insurer has agreed to:

14 (a) Perform or insure the obligation of the obligor or purchase the obligation; or

15 (b) Be unconditionally obligated until the obligation is repaid to maintain in the
 16 obligor a minimum net worth, fixed charge coverage, stockholders' equity, or
 17 sufficient liquidity to enable the obligor to pay the obligation in full.

18 (38) "Hedging transaction" means a derivative transaction that is entered into and
 19 maintained to reduce:

20 (a) The risk of a change in the value, yield, price, cash flow, or quantity of assets
 21 or liabilities that the insurer has acquired or incurred or anticipates acquiring
 22 or incurring; or

23 (b) The currency exchange rate risk or the degree of exposure as to assets or
 24 liabilities that an insurer has acquired or incurred or anticipates acquiring or
 25 incurring.

26 (39) "High grade investment" means a rated credit instrument rated 1 or 2 by the SVO.

27 (40) "Income" means, as to a security, interest, accrual of discount, dividends, or other

1 distributions, such as rights, tax or assessment, or assessment credits, warrants, and
 2 distributions in kind.

3 (41) "Income generation transaction" means a derivative transaction involving the
 4 writing of covered call options, covered put options, covered caps, or covered floors
 5 that is intended to generate income or enhance return.

6 (42) "Initial margin" means that amount of cash, securities, or other consideration
 7 initially required to be deposited to establish a futures position.

8 (43) "Insurance future" means a future relating to an index or pool that is based on
 9 insurance-related items.

10 (44) "Insurance futures option" means an option on an insurance future.

11 (45) "Investment company" means an investment company as defined in Section 3(a) of
 12 the Investment Company Act of 1940 (15 U.S.C. sec. 80a-1 et seq.), as amended,
 13 and a person described in Section 3(c) of that Act.

14 (46) "Investment company series" means an investment portfolio of an investment
 15 company that is organized as a series company and to which assets of the
 16 investment company have been specifically allocated.

17 (47) "Investment practices" means transactions of the types described in KRS 304.7-415,
 18 304.7-419, 304.7-467, and 304.7-471.

19 (48) "Investment subsidiary" means a subsidiary of an insurer engaged or organized to
 20 engage exclusively in the ownership and management of assets authorized as
 21 investment for the insurer if each subsidiary agrees to limit its investment in any
 22 asset so that its investments will not cause the amount of the total investment of the
 23 insurer to exceed any of the investment limitations or avoid any other provisions of
 24 this subtitle applicable to the insurer. As used in this subsection, the total
 25 investment of the insurer shall include:

26 (a) Direct investment by the insurer in an asset; and

27 (b) The insurer's proportionate share of an investment in an asset by an

1 investment subsidiary of the insurer, that shall be calculated by multiplying
2 the amount of the subsidiary's investment by the percentage of the insurer's
3 ownership interest in the subsidiary.

4 (49) "Investment strategy" means the techniques and methods used by an insurer to meet
5 its investment objectives, such as active bond portfolio management, passive bond
6 portfolio management, interest rate anticipation, growth investing, and value
7 investing.

8 (50) "Letter of credit" means a clean, irrevocable, and unconditional letter of credit
9 issued or confirmed by, and payable and presentable at, a financial institution on the
10 list of financial institutions meeting the standards for issuing letters of credit under
11 the Purposes and Procedures of the Securities Valuation Office or any successor
12 publication. To constitute acceptable collateral for the purposes of KRS 304.7-415
13 and 304.7-467, a letter of credit shall have an expiration date beyond the term of the
14 subject transaction.

15 (51) "Limited liability company" means a business organization, excluding partnerships
16 and ordinary business corporations, organized or operating under the laws of the
17 United States or any state thereof that limits the personal liability of investors to the
18 equity investment of the investor in the business entity.

19 (52) "Lower grade investment" means a rated credit instrument rated 4, 5, or 6 by the
20 SVO.

21 (53) "Market value" means:

22 (a) As to cash and letters of credit, the amounts thereof; and

23 (b) As to security as of any date, the price for the security on that date obtained
24 from a generally recognized source or the most recent quotation from such a
25 source or, to the extent no generally recognized source exists, the price for the
26 security as determined in good faith by the parties to a transaction, plus
27 accrued but unpaid income thereon to the extent not included in the price as of

1 that date.

2 (54) "Medium grade investment" means a rated credit instrument rated 3 by the SVO.

3 (55) "Money market mutual fund" means a mutual fund that meets the conditions of 17
4 Code of Federal Regulations Par. 270.2a-7, under the Investment Company Act of
5 1940 (15 U.S.C. sec. 80a-1 et seq.), as amended or renumbered.

6 (56) "Mortgage loan" means an obligation secured by a mortgage, deed of trust, trust
7 deed, or other consensual lien on real estate.

8 (57) "Multilateral development bank" means an international development organization
9 of which the United States is a member.

10 (58) "Mutual fund" means an investment company or, in the case of an investment
11 company that is organized as a series company, an investment company series, that,
12 in either case, is registered with the United States Securities and Exchange
13 Commission under the Investment Company Act of 1940 (15 U.S.C. sec. 80a-1 et
14 seq.), as amended.

15 (59) "NAIC" means the National Association of Insurance Commissioners.

16 (60) "Obligation" means a bond, note, debenture, or a trust certificate including an
17 equipment certificate, production payment, negotiable bank certificate of deposit,
18 bankers' acceptance, credit tenant loan, loan secured by financing net leases, and
19 other evidence of indebtedness for the payment of money or participations,
20 certificates, or other evidences of an interest in any of the foregoing, whether
21 constituting a general obligation of the issuer or payable only out of certain
22 revenues or certain funds pledged or otherwise dedicated for payment.

23 (61) "Option" means an agreement giving the buyer the right to buy or receive (a "call
24 option"), sell or deliver (a "put option"), enter into, extend, terminate, or effect a
25 cash settlement based on the actual or expected price level, performance or value of
26 one (1) or more underlying interests.

27 (62) "Person" means an individual, a business entity, a multilateral development bank, or

1 a government or quasi-governmental body, such as a political subdivision or a
2 government sponsored enterprise.

3 (63) "Potential exposure" means the amount determined in accordance with the NAIC
4 Annual Statement Instructions.

5 (64) "Preferred stock" means preferred, preference, or guaranteed stock of a business
6 entity authorized to issue the stock, that has a preference in liquidation over the
7 common stock of the business entity.

8 (65) "Qualified bank" means:

9 (a) A national bank, state bank, or trust company that at all times is no less than
10 adequately capitalized as determined by standards adopted by the United
11 States banking regulators and that is either regulated by state banking laws, or
12 is a member of the Federal Reserve Bank of New York; or

13 (b) A bank or trust company incorporated or organized under the laws of a
14 country other than the United States that is regulated as a bank or trust
15 company by that country's government or an agency thereof and that at all
16 times is no less than adequately capitalized as determined by the standards
17 adopted by international banking authorities.

18 (66) "Qualified business entity" means a business entity that is:

19 (a) An issuer of obligations or preferred stock that are rated 1 or 2 by SVO or an
20 issuer of obligations, preferred stock, or derivative instruments that are rated
21 the equivalent of 1 or 2 by the SVO or by a nationally recognized statistical
22 rating organization recognized by the SVO; or

23 (b) A primary dealer in United States government securities, recognized by the
24 Federal Reserve Bank of New York.

25 (67) "Qualified clearinghouse" means a clearinghouse for, and subject to the rules of, a
26 qualified exchange or a qualified foreign exchange, that provides clearing service,
27 including acting as a counterparty to each of the parties to a transaction such that the

1 parties no longer have credit risks as to each other.

2 (68) "Qualified exchange" means:

- 3 (a) A securities exchange registered as a national securities exchange, or a
- 4 securities market regulated under the Securities Exchange Act of 1934 (15
- 5 U.S.C. sec. 78 et seq.), as amended;
- 6 (b) A board of trade or commodities exchange designated as a contract market by
- 7 the Commodity Futures Trading Commission or any successor thereof;
- 8 (c) Private Offerings, Resales, and Trading through Automated Linkages
- 9 (PORTAL);
- 10 (d) A designated offshore securities market as defined in Securities Exchange
- 11 Commission Regulation S, 17 C.F.R. Part 230, as amended; or
- 12 (e) A qualified foreign exchange.

13 (69) "Qualified foreign exchange" means a foreign exchange, board of trade, or contract

14 market located outside the United States, its territories, or possessions:

- 15 (a) That has received regulatory comparability relief under Commodity Futures
- 16 Trading Commission (CFTC) Rule 30.10, as set forth in Appendix C to Part
- 17 30 of the CFTC's Regulations, 17 C.F.R. Part 30;
- 18 (b) That is, or its members are, subject to the jurisdiction of a foreign futures
- 19 authority that has received regulatory comparability relief under CFTC Rule
- 20 30.10, as set forth in Appendix C to Part 30 of the CFTC's Regulations, 17
- 21 C.F.R. Part 30, as to futures transactions in the jurisdiction where the
- 22 exchange, board of trade, or contract market is located; or
- 23 (c) Upon which foreign stock index futures contracts are listed that are the subject
- 24 of no-action relief issued by the CFTC's Office of General Counsel, provided
- 25 that an exchange, board of trade, or contract market that qualifies as a
- 26 qualified foreign exchange only under this subsection shall only be a qualified
- 27 foreign exchange as to foreign stock index futures contracts that are the

1 subject of no-action relief.

2 (70) (a) "Rated credit instrument" means a contractual right to receive cash or another
3 rated credit instrument from another entity that:

- 4 1. Is rated or required to be rated by the SVO;
- 5 2. In the case of an instrument with a maturity of three hundred ninety-
6 seven (397) days or less, is issued, guaranteed, or insured by an entity
7 that is rated by, or another obligation of the entity is rated by, the SVO
8 or by a nationally recognized statistical rating organization recognized
9 by the SVO;
- 10 3. In the case of an instrument with a maturity of ninety (90) days or less is
11 issued by a qualified bank;
- 12 4. Is a share of a class one bond mutual fund; or
- 13 5. Is a share of a money market mutual fund.

14 (b) However, "rated credit instrument" does not mean:

- 15 1. An instrument that is mandatorily, or at the option of the issuer,
16 convertible to an equity interest; or
- 17 2. A security that has a par value and whose terms provide that the issuer's
18 net obligation to repay all or part of the security's par value is
19 determined by reference to the performance of an equity, a commodity, a
20 foreign currency, or an index of equities, commodities, foreign
21 currencies, or combinations thereof.

22 (71) "Real estate" means:

- 23 (a) 1. Real property;
- 24 2. Interests in real property, such as leaseholds, minerals, oil, and gas that
25 have not been separated from the underlying fee interest;
- 26 3. Improvements and fixtures located on or in real property; and
- 27 4. The seller's equity in a contract providing for a deed of real estate.

- 1 (b) As to a mortgage on a leasehold estate, real estate shall include the leasehold
 2 estate only if it has an unexpired term, including renewal options exercisable
 3 at the option of the lessee, extending beyond the scheduled maturity date of
 4 the obligation that is secured by a mortgage on the leasehold estate by a period
 5 equal to at least twenty percent (20%) of the original term of the obligation or
 6 ten (10) years, whichever is greater.
- 7 (72) "Replication transaction" means a derivative transaction that is intended to replicate
 8 the performance of one (1) or more assets that an insurer is authorized to acquire
 9 under this subtitle. A derivative transaction that is entered into as a hedging
 10 transaction shall not be considered a replication transaction.
- 11 (73) "Repurchase transaction" means a transaction in which an insurer purchases
 12 securities from a business entity that is obligated to repurchase the purchased
 13 securities or equivalent securities from the insurer at a specified price, either within
 14 a specified period of time or upon demand.
- 15 (74) "Required liabilities" means total liabilities required to be reported on the statutory
 16 financial statement of the insurer most recently required to be filed with the
 17 commissioner~~[executive director]~~.
- 18 (75) "Residential mortgage loan" means a loan primarily secured by a mortgage on real
 19 estate improved with a one (1) to four (4) family residence.
- 20 (76) "Reverse repurchase transaction" means a transaction in which an insurer sells
 21 securities to a business entity and is obligated to repurchase the sold securities or
 22 equivalent securities from the business entity at a specified price, either within a
 23 specified period of time or upon demand.
- 24 (77) "Secured location" means the contiguous real estate owned by one (1) person.
- 25 (78) "Securities lending transaction" means a transaction in which securities are loaned
 26 by an insurer to a business entity that is obligated to return the loaned securities or
 27 equivalent securities to the insurer, either within a specified period of time or upon

1 demand.

2 (79) "Series company" means an investment company that is organized as a series
3 company, as defined in Rule 18f-2(a) adopted under the Investment Company Act
4 of 1940 (15 U.S.C. sec. 80a-1 et seq.), as amended.

5 (80) "Sinking fund stock" means preferred stock that:

6 (a) Is subject to a mandatory sinking fund or similar arrangement that will
7 provide for the redemption or open market purchase of the entire issue over a
8 period not longer than forty (40) years from the date of acquisition; and

9 (b) Provides for mandatory sinking fund installments or open market purchases
10 commencing not more than ten and one-half (10 1/2) years from the date of
11 issue, with the sinking fund installments providing for the purchase or
12 redemption, on a cumulative basis commencing ten (10) years from the date of
13 issue, of at least two and one-half percent (2.5%) per year of the original
14 number of shares of that issue of preferred stock.

15 (81) "Special rated credit instrument" means a rated credit instrument that is:

16 (a) An instrument that is structured so that, if it is held until retired by or on
17 behalf of the issuer, its rate of return, based on its purchase cost and any cash
18 flow stream possible under the structure of the transaction, may become
19 negative due to reasons other than the credit risk associated with the issuer of
20 the instrument; however, a rated credit instrument shall not be a special rated
21 credit instrument under this subsection if it is:

- 22 1. A share in a class one bond mutual fund;
- 23 2. An instrument, other than an asset-backed security, with payments of par
24 value fixed as to amount and timing, or callable but in any event payable
25 only at par or greater, and interest or dividend cash flows that are based
26 on either a fixed or variable rate determined by reference to a specified
27 rate or index;

- 1 3. An instrument, other than an asset-backed security, that has a par value
- 2 and is purchased at a price not greater than one hundred ten percent
- 3 (110%) of par;
- 4 4. An instrument, including an asset-backed security, whose rate of return
- 5 would become negative only as a result of a prepayment due to casualty,
- 6 condemnation, or economic obsolescence of collateral or change of law;
- 7 5. An asset-backed security that relies on collateral that meets the
- 8 requirements of subparagraph 2. of this paragraph, the par value of
- 9 which collateral:
- 10 a. Is not permitted to be paid sooner than one-half (1/2) of the
- 11 remaining term to maturity from the date of acquisition;
- 12 b. Is permitted to be paid prior to maturity only at a premium
- 13 sufficient to provide a yield to maturity for the investment,
- 14 considering the amount prepaid and reinvestment rates at the time
- 15 of early repayment, at least equal to the yield to maturity of the
- 16 initial investment; or
- 17 c. Is permitted to be paid prior to maturity at a premium at least equal
- 18 to the yield of a Treasury issue of comparable remaining life; or
- 19 6. An asset-backed security that relies on cash flows from assets that are
- 20 not prepayable at any time at par, but is not otherwise governed by
- 21 subparagraph 5. of this paragraph, if the asset-backed security has a par
- 22 value reflecting principal payments to be received if held until retired by
- 23 or on behalf of the issuer and is purchased at a price no greater than one
- 24 hundred five percent (105%) of the par amount.
- 25 (b) An asset-backed security that:
- 26 1. Relies on cash flows from assets that are prepayable at par at any time;
- 27 2. Does not make payments of par that are fixed as to amount and timing;

1 and

2 3. Has a negative rate of return at the time of acquisition if a prepayment
3 threshold assumption is used with the prepayment threshold assumption
4 defined as either:

5 a. Two (2) times the prepayment expectation reported by a
6 recognized, publicly available source as being the median of
7 expectations contributed by broker dealers or other entities, except
8 insurers, engaged in the business of selling or evaluating the
9 securities or assets. The prepayment expectation used in this
10 calculation shall be, at the insurer's election, the prepayment
11 expectation for pass-through securities of the Federal National
12 Mortgage Association, the Federal Home Loan Mortgage
13 Corporation, the Government National Mortgage Association, or
14 for other assets of the same type as the assets that underlie the
15 asset-backed security, in either case with a gross weighted average
16 coupon comparable to the gross weighted average coupon of the
17 assets that underlie the asset-backed security; or

18 b. Another prepayment threshold assumption specified by the
19 commissioner~~[executive-director]~~ by administrative regulation
20 promulgated under KRS 304.7-367.

21 (c) For purposes of paragraph (b) of this subsection, if the asset-backed security is
22 purchased in combination with one (1) or more other asset-backed securities
23 that are supported by identical underlying collateral, the insurer may calculate
24 the rate of return for these specific combined asset-backed securities in
25 combination. The insurer shall maintain documentation demonstrating that the
26 securities were acquired and are continuing to be held in combination.

27 (82) "State" means a state, territory, or possession of the United States, the District of

1 Columbia, or the Commonwealth of Puerto Rico.

2 (83) "Substantially similar securities" means securities that meet all criteria for
3 substantially similar securities specified in the NAIC Accounting Practices and
4 Procedures manual, as amended, and in an amount that constitutes good delivery
5 form as determined from time to time by the Public Securities Administration.

6 (84) "SVO" means the Securities Valuation Office of the NAIC or any successor office
7 established by the NAIC.

8 (85) "Swap" means an agreement to exchange or to net payments at one (1) or more
9 times based on the actual or expected price, level, performance, or value of one (1)
10 or more underlying interests.

11 (86) "Underlying interest" means the assets, liabilities, other interests, or a combination
12 thereof underlying a derivative instrument, such as any one (1) or more securities,
13 currencies, rates, indices, commodities, or derivative instruments.

14 (87) "Unrestricted surplus" means the amount by which total admitted assets exceed one
15 hundred twenty-five percent (125%) of the insurer's required liabilities.

16 (88) "Warrant" means an instrument that gives the holder the right to purchase an
17 underlying financial instrument at a given price and time or at a series of prices and
18 times outlined in the warrant agreement. Warrants may be issued alone or in
19 connection with the sale of other securities, for example, as part of a merger,
20 recapitalization agreement, or to facilitate divestiture of the securities of another
21 business entity.

22 ➔Section 1009. KRS 304.7-014 is amended to read as follows:

23 (1) (a) Insurers may acquire, hold, or invest investments or engage in investment
24 practices as set forth in this subtitle. Investments not conforming to this
25 subtitle or otherwise expressly allowed in this chapter shall not be admitted
26 assets.

27 (b) This subtitle shall apply to investments and investment practices of domestic

1 insurers and United States branches of alien insurers entered through this
 2 state. This subtitle shall not apply to separate accounts of an insurer except to
 3 the extent that the provisions of KRS 304.7-240 so provide.

4 (2) Subject to subsection (3) of this section, an insurer shall not acquire or hold an
 5 investment as an admitted asset unless at the time of acquisition it is:

6 (a) Eligible for the payment or accrual of interest or discount, whether in cash or
 7 other securities, eligible to receive dividends or other distributions, or is
 8 otherwise income producing; or

9 (b) Acquired under KRS 304.7-413(3), 304.7-415, 304.7-419, 304.7-423, 304.7-
 10 465(3), 304.7-467, 304.7-471, or 304.7-473, or under the authority of sections
 11 of the code other than in this subtitle.

12 (3) An insurer may acquire or hold as admitted assets investments that do not otherwise
 13 qualify under this subtitle if the insurer has not acquired them for the purpose of
 14 circumventing any limitations contained in this subtitle, if the insurer acquires the
 15 investments in the following circumstances and the insurer complies with the
 16 provisions of KRS 304.7-363 as to the investments:

17 (a) As payment on account of existing indebtedness or in connection with the
 18 refinancing, restructuring, or workout of existing indebtedness, if taken to
 19 protect the insurer's interest in that investment;

20 (b) As realization on collateral for an obligation;

21 (c) In connection with an otherwise qualified investment or investment practice,
 22 as interest on a dividend, other distribution related to the investment,
 23 investment practice, or in connection with the refinancing of the investment,
 24 in each case for no additional or only nominal consideration;

25 (d) Under a lawful and bona fide agreement of recapitalization, voluntary, or
 26 involuntary reorganization in connection with an investment held by the
 27 insurer; or

- 1 (e) Under a bulk reinsurance, merger, or consolidation transaction approved by
 2 the commissioner~~[executive-director]~~ if the assets constitute admissible
 3 investments for the ceding, merged, or consolidated companies.
- 4 (4) A foreign insurer that becomes a domestic insurer in accordance with KRS 304.24-
 5 500 may hold as admitted assets investments that do not otherwise qualify under
 6 this subtitle if the investments were qualified as admitted assets in the insurer's
 7 former state of domicile immediately prior to the insurer's becoming a Kentucky
 8 domestic insurer, if the insurer has not acquired the investments for the purpose of
 9 circumventing any limitations contained in this subtitle and if the insurer complies
 10 with the provisions of KRS 304.7-363 as to the investments.
- 11 (5) An investment or portion of an investment acquired by an insurer under subsections
 12 (3) or (4) of this section shall become a nonadmitted asset three (3) years, or five (5)
 13 years in the case of mortgage loans and real estate, from the date of its acquisition,
 14 unless within that period the investment has become a qualified investment under
 15 this subtitle other than subsections (3) or (4) of this section, but an investment
 16 acquired under an agreement of bulk reinsurance, merger, or consolidation may be
 17 qualified for a longer period if so provided in the plan for reinsurance, merger, or
 18 consolidation as approved by the commissioner~~[executive-director]~~. Upon
 19 application by the insurer and a showing that the nonadmission of an asset held
 20 under subsections (3) or (4) of this section would materially injure the interests of
 21 the insurer, the commissioner~~[executive-director]~~ may extend the period for
 22 admissibility for an additional reasonable period of time.
- 23 (6) Except as provided in subsections (7) and (9) of this section, an investment shall
 24 qualify under this subtitle if, on the date the insurer committed to acquire the
 25 investment or on the date of its acquisition, it would have qualified under this
 26 subtitle. For the purposes of determining limitations contained in this subtitle, an
 27 insurer shall give appropriate recognition to any commitments to acquire

1 investments.

2 (7) (a) An investment held as an admitted asset by an insurer on July 14, 2000 that
3 qualified under this subtitle shall remain qualified as an admitted asset under
4 this subtitle.

5 (b) Each specific transaction constituting an investment practice of the type
6 described in this subtitle that was lawfully entered into by an insurer and was
7 in effect on July 14, 2000 shall continue to be permitted under this subtitle
8 until its expiration or termination under its terms.

9 (8) Unless otherwise specified, an investment limitation computed on the basis of an
10 insurer's admitted assets or capital and surplus shall relate to the amount required to
11 be shown on the statutory balance sheet of the insurer most recently required to be
12 filed with the commissioner~~executive director~~. For purposes of computing any
13 limitation based upon admitted assets, the insurer shall deduct from the amount of
14 its admitted assets the amount of the liability recorded on its statutory balance sheet
15 for:

16 (a) The return of acceptable collateral received in a reverse repurchase transaction
17 or a securities lending transaction;

18 (b) Cash received in a dollar roll transaction; and

19 (c) The amount reported as borrowed money in the most recently filed financial
20 statement to the extent not included in paragraphs (a) and (b) of this
21 subsection.

22 (9) An investment qualified, in whole or in part, for acquisition or holding as an
23 admitted asset may be qualified or requalified at the time of acquisition or a later
24 date, in whole or in part, under any other section of this subtitle, if the relevant
25 conditions contained in the other section of this subtitle are satisfied at the time of
26 qualification or requalification.

27 (10) An insurer shall maintain documentation demonstrating that investments were

1 acquired in accordance with this subtitle, and specifying the section of this subtitle
2 under which they were acquired.

3 (11) An insurer shall not enter into an agreement to purchase securities in advance of
4 their issuance for resale to the public as part of a distribution of the securities by the
5 issuer, or otherwise guarantee the distribution, except that an insurer may acquire
6 privately placed securities with registration rights.

7 (12) Notwithstanding the provisions of this subtitle, the commissioner~~executive~~
8 ~~director~~], for good cause, may order under the state's administrative regulations, an
9 insurer to nonadmit, limit, dispose of, withdraw from or discontinue an investment
10 or investment practice. The authority of the commissioner~~executive director~~ under
11 this subsection is in addition to any other authority of the commissioner~~executive~~
12 ~~director~~].

13 (13) Insurance futures and insurance futures options are not considered investments or
14 investment practices for the purposes of this subtitle.

15 ➔Section 1010. KRS 304.7-240 is amended to read as follows:

16 (1) The amounts allocated to each separate account established by the insurer in
17 connection with a pension, retirement or profit-sharing plan, life insurance or an
18 annuity pursuant to KRS 304.15-390 together with accumulations thereon, may be
19 invested and reinvested in any class of investments which may be authorized in the
20 written contract or agreement without regard to any requirements or limitations
21 prescribed by this subtitle; except, that to the extent that the insurer's reserve
22 liability with regards to:

23 (a) Benefits guaranteed as to amount and duration; and

24 (b) Funds guaranteed as to principal amount or stated rate of interest, is
25 maintained in any separate account, a portion of the assets of such separate
26 account at least equal to such reserve liability shall be invested in accordance
27 with the applicable provisions of this subtitle.

1 The investments in such separate account or accounts shall not be taken into
 2 account in applying the investment limitations applicable to other investments of
 3 the insurer.

- 4 (2) On application by an insurer, the commissioner~~[executive director]~~ may approve
 5 different investment limitations and restrictions for specified separate accounts of
 6 the insurer. The commissioner~~[executive director]~~ shall only approve the insurer's
 7 proposed limitations and restrictions if he or she finds that the requested investment
 8 limitations and restrictions adequately protect the interests of the insured protected
 9 by the separate account and the solvency of the insurer.

10 ➔Section 1011. KRS 304.7-350 is amended to read as follows:

- 11 (1) All obligations having a fixed term, rate, and face value held by an insurer
 12 authorized to do business in this state may, if amply secured and not in default
 13 either as to principal or interest, be valued as follows: if acquired at face value, at
 14 the face value; if acquired above or below face value, on the basis of the purchase
 15 price adjusted annually to bring the value to face value at maturity and so as to yield
 16 in each year the effective rate of interest at which the purchase was made. The
 17 amortization provided for in this subsection may be calculated with reasonable
 18 approximations. The commissioner~~[executive director]~~ shall have the power to
 19 determine by rule the eligibility of investments for valuation under this subsection.

- 20 (2) (a) Securities, other than those referred to in subsection (1) of this section, held
 21 by an insurer shall be valued, in the discretion of the commissioner~~[executive~~
 22 ~~director]~~, at their fair market value, at their appraised value, or at prices
 23 determined by the commissioner~~[executive director]~~ as representing their fair
 24 market value.

- 25 (b) Preferred or guaranteed stock or shares while paying full dividends may be
 26 carried at a fixed value in lieu of market value, at the discretion of the
 27 commissioner~~[executive director]~~ and in accordance with the method of

1 computation he or she approves.

2 (c) Securities qualifying under KRS 304.7-120, 304.7-423, or 304.7-473 shall be
3 valued at their fair value or net equity value, except that securities of a
4 subsidiary insurance corporation as provided for in KRS 304.7-120 shall be
5 valued either at cost or on a net equity basis, whichever is greater.

6 (3) (a) Real property acquired pursuant to a mortgage loan or contract for sale, in the
7 absence of a recent appraisal deemed by the commissioner~~[executive director]~~
8 to be reliable, shall not be valued at an amount greater than the unpaid
9 principal of the defaulted loan or contract at the date of acquisition, together
10 with any taxes and expenses paid or incurred in connection with acquisition,
11 and the cost of improvements thereafter made by the insurer and any amounts
12 thereafter paid by the insurer on assessments levied for improvements in
13 connection with the property.

14 (b) Other real property held by an insurer shall not be valued at an amount in
15 excess of fair value as determined by recent appraisal deemed by the
16 commissioner~~[executive director]~~ to be reliable. If valuation is based on an
17 appraisal more than three (3) years old, the commissioner~~[executive director]~~
18 may, at his or her discretion, call for and require a new appraisal in order to
19 determine fair value.

20 (c) Personal property acquired pursuant to chattel mortgages or security
21 agreements shall not be valued at an amount greater than the unpaid principal
22 of the defaulted loan at the date of acquisition, together with any taxes and
23 expenses paid or incurred in connection with acquisition, or the fair value of
24 the property, whichever amount is the lesser.

25 (4) However, in all cases securities shall be valued in accordance with the standards
26 promulgated by the National Association of Insurance Commissioners including the
27 Purposes and Procedures of the Securities Valuation Office, the Valuation of

1 Securities Manual, the Accounting Practices and Procedures Manual, the Annual
2 Statement Instructions, or any successor valuation procedures officially adopted by
3 the NAIC.

4 ➔Section 1012. KRS 304.7-360 is amended to read as follows:

5 (1) As used in this section:

6 (a) "Clearing corporation" shall be defined as provided in KRS 355.8-102(3)
7 except that, with respect to securities issued by institutions organized or
8 existing under the laws of any foreign country or securities used to meet the
9 deposit requirements pursuant to the laws of a foreign country as a condition
10 of doing business therein, "clearing corporation" may include a corporation
11 organized or existing under the laws of any foreign country which is legally
12 qualified under such laws to effect transactions in securities by computerized
13 book entry.

14 (b) "Custodian bank" means a national bank, state bank or trust company which is
15 a member of the Federal Reserve System which acts as custodian of all or any
16 part of an insurance company's securities.

17 (c) "Direct participant" means a bank, trust company, or other institution which
18 maintains an account in its name in a clearing corporation and through which
19 an insurance company participates in a clearing corporation.

20 (d) "Federal reserve book-entry system" means the computerized systems
21 sponsored by the United States Department of the Treasury and certain
22 agencies and instrumentalities of the United States for holding and
23 transferring securities of the United States government and such agencies and
24 instrumentalities, respectively, in federal reserve banks through banks which
25 are members of the Federal Reserve System or which otherwise have access to
26 such computerized systems.

27 (e) "Member bank" means a national bank, state bank or trust company which is a

1 member of the Federal Reserve System through which an insurance company
2 participates in the federal reserve book-entry system.

3 (f) "Security" means a certificated security or an uncertificated security.

4 (g) "Certificated security" means a share, participation or other interest in
5 property or an enterprise of the issuer or an obligation of the issuer which is
6 represented by an instrument issued in bearer or registered form, of a type
7 commonly dealt in on securities exchanges or markets or commonly
8 recognized in any area in which it is issued or dealt in as a medium for
9 investment, and either one (1) of a class or series or by its terms divisible into
10 a class or series of shares, participations, interests, or obligations.

11 (h) "Uncertificated security" means a share, participation, or other interest in
12 property or an enterprise of the issuer or an obligation of the issuer which is
13 not represented by an instrument and the transfer of which is registered upon
14 books maintained for that purpose by or on behalf of the issuer, of a type
15 commonly dealt in on securities exchanges or markets; and either one (1) of a
16 class or series or by its terms divisible into a class or series of shares,
17 participations, interests, or obligations.

18 (2) Notwithstanding any other provision of law, an insurance company or its custodian
19 bank may deposit or arrange for the deposit of securities held in or purchased for the
20 general account and the separate accounts of such insurance company in a clearing
21 corporation or the federal reserve book-entry system. When securities are deposited
22 with a clearing corporation, certificates representing securities of the same class of
23 the same issuer may be merged and held in bulk in the name of the nominee of such
24 clearing corporation with any other securities deposited with such clearing
25 corporation by any person, regardless of the ownership of such securities, and
26 certificates representing securities of small denominations may be merged into one
27 (1) or more certificates of larger denominations. The records of any member bank

1 through which an insurance company holds securities in the federal reserve book-
2 entry system, and the records of any direct participant through which an insurance
3 company holds securities in a clearing corporation, shall at all times show that such
4 securities are held for such insurance company or its custodian bank and for which
5 accounts thereof. Ownership of, and other interests in, such securities may be
6 transferred by bookkeeping entry on the books of such clearing corporation or in the
7 federal reserve book-entry system without, in either case, physical delivery of
8 certificates representing such securities.

9 (3) Notwithstanding any other provision of law, an insurance company may deposit
10 securities held in or purchased for its general account and its separate accounts in a
11 custodial account with a custodian bank approved by, and under a custodial
12 agreement approved by, the commissioner~~[executive director]~~. When securities are
13 deposited in such custodial account, certificates representing securities of the same
14 class of the same issuer may be merged and held in bulk in the name of the
15 custodian bank or its nominee with any other securities held in the custody of the
16 custodian bank or its nominee by any person, regardless of the ownership of such
17 securities, and certificates representing securities of small denominations may be
18 merged into one (1) or more certificates of larger denominations. The records of the
19 custodian bank which holds securities for an insurance company in a custodial
20 account shall at all times show that such securities are held for such insurance
21 company and for which accounts thereof. Ownership of, and other interests in, such
22 securities may be transferred by bookkeeping entry on the books of such custodian
23 bank without physical delivery of certificates representing such securities.

24 (4) The same bank or trust company may act as direct participant, member bank, and
25 custodian bank for an insurance company.

26 (5) The commissioner~~[executive director]~~ of insurance shall promulgate rules and
27 regulations governing the deposit by insurance companies of securities with clearing

corporations and in the federal reserve book-entry system and with custodian banks.

➔ Section 1013. KRS 304.7-363 is amended to read as follows:

An insurer shall not, directly or indirectly:

(1) Invest in an obligation or security or make a guarantee for the benefit of or in favor of an officer or director of the insurer, except as provided in KRS 304.7-365;

(2) Invest in an obligation or security, make a guarantee for the benefit of or in favor of, or make other investments in a business entity of which ten percent (10%) or more of the voting securities or equity interests are owned directly or indirectly by or for the benefit of one (1) or more officers or directors of the insurer, except as authorized in KRS 304.37-110, or provided in KRS 304.7-365;

(3) Engage on its own behalf or through one (1) or more affiliates in a transaction or series of transactions designed to evade the prohibitions of this subtitle;

(4) (a) Invest in a partnership as a general partner, except that an insurer may make an investment as a general partner;

1. If all other partners in the partnership are subsidiaries of the insurer;

2. For the purpose of:

a. Meeting cash calls committed to prior to July 14, 2000;

b. Completing those specific projects or activities of the partnership in which the insurer was a general partner as of July 14, 2000 that had been undertaken as of that date; or

c. Making capital improvements to property owned by the partnership on July 14, 2000 if the insurer was a general partner as of that date; or

3. In accordance with KRS 304.7-014(3);

(b) This subsection shall not prohibit a subsidiary or other affiliate of the insurer from becoming a general partner; or

(5) Invest in or lend its funds upon the security of shares of its own stock, except that

1 an insurer may acquire shares of its own stock for the following purposes, but the
2 shares shall not be admitted assets of the insurer;

3 (a) Conversion of a stock insurer into a mutual or reciprocal insurer or a mutual
4 or reciprocal insurer into a stock insurer;

5 (b) Issuance to the insurer's officers, employees, or agents in connection with a
6 plan approved by the commissioner~~[executive director]~~ for converting a
7 publicly held insurer into a privately held insurer or in connection with other
8 stock option and employee benefit plans; or

9 (c) In accordance with any other plan approved by the commissioner~~[executive~~
10 ~~director]~~.

11 ➔Section 1014. KRS 304.7-365 is amended to read as follows:

12 (1) (a) Except as provided in subsection (2) of this section, an insurer shall not,
13 without the prior written approval of the commissioner~~[executive director]~~,
14 directly or indirectly:

15 1. Make a loan to or invest in an officer or director of the insurer or a
16 person in which the officer or director has any direct or indirect financial
17 interest;

18 2. Make a guarantee for the benefit of or in favor of an officer or director
19 of the insurer or a person in which the officer or director has any direct
20 or indirect financial interest; or

21 3. Enter into an agreement for the purchase or sale of property from or to
22 an officer or director of the insurer or a person in which the officer or
23 director has any direct or indirect financial interest.

24 (b) For purposes of this section, an officer or director shall not be deemed to have
25 a financial interest by reason of an interest that is held directly or indirectly
26 through the ownership of equity interests representing less than two percent
27 (2%) of all outstanding equity interests issued by a person that is a party to the

1 transaction, or solely by reason of that individual's position as a director or
 2 officer of a person that is a party to the transaction.

3 (c) This subsection does not permit an investment that is prohibited by KRS
 4 304.7-363.

5 (d) This subsection does not apply to a transaction between an insurer and any of
 6 its subsidiaries or affiliates that is entered into in compliance with Subtitle 37
 7 of KRS Chapter 304, other than a transaction between an insurer and its
 8 officer or director.

9 (2) An insurer may make, without the prior written approval of the
 10 commissioner~~[executive director]~~;

11 (a) Policy loans in accordance with the terms of the policy or contract and KRS
 12 304.7-401;

13 (b) Advances to officers or directors for expenses reasonably expected to be
 14 incurred in the ordinary course of the insurer's business or guarantees
 15 associated with credit or charge cards issued or credit extended for the
 16 purpose of financing these expenses;

17 (c) Loans secured by the principal residence of an existing or new officer of the
 18 insurer made in connection with the officer's relocation at the insurer's request,
 19 if the loans comply with the requirements of KRS 304.7-413 or 304.7-465,
 20 and the terms and conditions otherwise are the same as those generally
 21 available from unaffiliated third parties;

22 (d) Secured loans to an existing or new officer of the insurer made in connection
 23 with the officer's relocation at the insurer's request, if the loans:

- 24 1. Do not have a term exceeding two (2) years;
- 25 2. Are required to finance mortgage loans outstanding at the same time on
- 26 the prior and new residences of the officer;
- 27 3. Do not exceed an amount equal to the equity of the officer in the prior

1 residence; and

2 4. Are required to be fully repaid upon the earlier of the end of the two (2)
3 year period or the sale of the prior residence; and

4 (e) Loans and advances to officers or directors made in compliance with state or
5 federal law specifically related to the loans and advances by a regulated
6 noninsurance subsidiary or affiliate of the insurer in the ordinary course of
7 business and on terms no more favorable than available to other customers of
8 the entity.

9 ➔Section 1015. KRS 304.7-367 is amended to read as follows:

10 The commissioner~~[executive director]~~ may promulgate administrative regulations
11 implementing the provisions of this subtitle.

12 ➔Section 1016. KRS 304.7-407 is amended to read as follows:

13 (1) An insurer may acquire investments in investment pools that:

14 (a) Invest only in:

15 1. Obligations that are rated 1 or 2 by SVO or have an equivalent of an
16 SVO 1 or 2 rating or, in the absence of a 1 or 2 rating or equivalent
17 rating, the issuer has outstanding obligations with an SVO 1 or 2 or
18 equivalent rating by a nationally recognized statistical rating
19 organization recognized by the SVO and have:

20 a. A remaining maturity of three hundred ninety-seven (397) days or
21 less or a put that entitles the holder to receive the principal amount
22 of the obligation which put may be exercised through maturity at
23 specified intervals not exceeding three hundred ninety-seven (397)
24 days; or

25 b. A remaining maturity of three (3) years or less and a floating
26 interest rate that resets no less frequently than quarterly on the
27 basis of a current short-term index (federal funds, prime rate,

1 treasury bills, London InterBank Offered Rate (LIBOR), or
 2 commercial paper) and is subject to no maximum limit, if the
 3 obligations do not have an interest rate that varies inversely to
 4 market interest rate changes;

5 2. Government money market mutual funds or class one money market
 6 mutual funds; or

7 3. Securities lending, repurchase, and reverse repurchase transactions that
 8 meet all the requirements of KRS 304.7-415, except the quantitative
 9 limitations of KRS 304.7-415(4); or

10 (b) Invest only in investments that an insurer may acquire under this subtitle, if
 11 the insurer's proportionate interest in the amount invested in these investments
 12 does not exceed the applicable limits of this subtitle.

13 (2) For an investment in an investment pool to be qualified under this subtitle, the
 14 investment pool shall not:

15 (a) Acquire securities issued, assumed, guaranteed, or insured by the insurer or an
 16 affiliate of the insurer;

17 (b) Borrow or incur any indebtedness for borrowed money, except for securities
 18 lending and reverse repurchase transactions that meet the requirements of
 19 KRS 304.7-415, except the quantitative limitations of KRS 304.7-415(4); or

20 (c) Permit the aggregate value of securities then loaned or sold to, purchased
 21 from, or invested in any one (1) business entity under this section to exceed
 22 ten percent (10%) of the total assets of the investment pool.

23 (3) The limitations of KRS 304.7-403(1) shall not apply to an insurer's investment in an
 24 investment pool, however an insurer shall not acquire an investment in an
 25 investment pool under this section if, as a result of and after giving effect to the
 26 investment, the aggregate amount of investment then held by the insurer under this
 27 section:

- 1 (a) In any one (1) investment pool would exceed ten percent (10%) of its admitted
- 2 assets;
- 3 (b) In all investment pools investing in investments permitted under paragraph (b)
- 4 of subsection (1) of this section would exceed twenty-five (25%) of its
- 5 admitted assets; or
- 6 (c) In all investment pools would exceed thirty-five percent (35%) of its admitted
- 7 assets.
- 8 (4) For an investment in an investment pool to be qualified under this subtitle, the
- 9 manager of the investment pool shall:
 - 10 (a) Be organized under the laws of the United States or a state and designated as
 - 11 the pool manager in a pooling agreement;
 - 12 (b) Be the insurer, an affiliated insurer or a business entity affiliated with the
 - 13 insurer, a qualified bank, a business entity registered under the Investment
 - 14 Advisors Act of 1940 (15 U.S.C. sec. 80a-1 et seq.), as amended or, in the
 - 15 case of a reciprocal insurer or interinsurance exchange, its attorney-in-fact, or
 - 16 in the case of a United States branch of an alien insurer, its United States
 - 17 manager or affiliates or subsidiaries of its United States manager;
 - 18 (c) Compile and maintain detailed accounting records setting forth:
 - 19 1. The cash receipts and disbursements reflecting each participant's
 - 20 proportionate investment in the investment pool;
 - 21 2. A complete description of all underlying assets of the investment pool,
 - 22 including amount, interest rate, maturity date if any, and other
 - 23 appropriate designations; and
 - 24 3. Other records that, on a daily basis, allow third parties to verify each
 - 25 participant's investment in the investment pool; and
 - 26 (d) Maintain the assets of the investment pool in one (1) or more accounts, in the
 - 27 name of or on behalf of the investment pool, under a custody agreement with a

1 qualified bank. The custody agreement shall:

- 2 1. State and recognize the claims and rights of each participant;
- 3 2. Acknowledge that the underlying assets of the investment pool are held
- 4 solely for the benefit of each participant in proportion to the aggregate
- 5 amount of its investments in the investment pool; and
- 6 3. Contain an agreement that the underlying assets of the investment pool
- 7 shall not be commingled with the general assets of the custodian
- 8 qualified bank or any other person.

9 (5) The pooling agreement for each investment pool shall be in writing and shall
10 provide that:

- 11 (a) An insurer and its affiliated insurers or, in the case of an investment pool
- 12 investing solely in investments permitted under paragraph (a) of subsection
- 13 (1) of this section, the insurer and its subsidiaries, affiliates, or any pension or
- 14 profit sharing plan of the insurer, its subsidiaries and affiliates or, in the case
- 15 of a United States branch of an alien insurer, affiliates or subsidiaries of its
- 16 United States manager, shall at all times, hold one hundred percent (100%) of
- 17 the interest in the investment pool;
- 18 (b) The underlying assets of the investment pool shall not be commingled with
- 19 the general assets of the pool manager or any other person;
- 20 (c) In proportion to the aggregate amount of each pool participant's interest in the
- 21 investment pool:
- 22 1. Each participant owns an undivided interest in the underlying assets of
- 23 the investment pool; and
- 24 2. The underlying assets of the investment pool are held solely for the
- 25 benefit of each participant;
- 26 (d) A participant, or in the event of the participant's insolvency, bankruptcy, or
- 27 receivership, its trustee, receiver, or other successor-in-interest, may withdraw

all or any portion of its investment from the investment pool under the terms of the pooling agreement;

(e) Withdrawals may be made on demand without penalty or other assessment on any business day, but settlement of funds shall occur within a reasonable and customary period thereafter not to exceed five (5) business days. Distributions under this paragraph shall be calculated in each case net of all then applicable fees and expenses of the investment pool. The pooling agreement shall provide that the pool manager shall distribute to a participant, at the discretion of the pool manager:

1. In cash, the then fair market value of the participant's pro rata share of each underlying asset of the investment pool;
2. In kind, a pro rata share of each underlying asset; or
3. In a combination of cash and in-kind distributions, a pro rata share in each underlying asset; and

(f) The pool manager shall make the records of the investment pool available for inspection by the commissioner~~[executive director]~~.

➔Section 1017. KRS 304.7-413 is amended to read as follows:

- (1) (a) Subject to the limitations of KRS 304.7-403, an insurer may acquire, either directly or indirectly through limited partnership interests and general partnership interests not otherwise prohibited by KRS 304.7-363(4), joint ventures, stock of an investment subsidiary or membership interests in a limited liability company, trust certificates, or other similar instruments, obligations secured by mortgages on real estate situated within a domestic jurisdiction, but a mortgage loan that is secured by other than a first lien shall not be acquired unless the insurer is the holder of the first lien. The obligations held by the insurer and any obligations with an equal lien priority, shall not, at the time of acquisition of the obligation, exceed:

- 1 1. Ninety percent (90%) of the fair market value of the real estate, if the
2 mortgage loan is secured by a purchase money mortgage or like security
3 received by the insurer upon disposition of the real estate;
- 4 2. Eighty percent (80%) of the fair market value of the real estate, if the
5 mortgage loan requires immediate scheduled payment in periodic
6 installments of principal and interest, has an amortization period of
7 thirty (30) years or less, and periodic payments made no less frequently
8 than annually. Each periodic payment shall be sufficient to assure that at
9 all times the outstanding principal balance of the mortgage loan shall be
10 no greater than the outstanding principal balance that would be
11 outstanding under a mortgage loan with the same original principal
12 balance, with the same interest rate, and requiring equal payments of
13 principal and interest with the same frequency over the same
14 amortization period. Mortgage loans permitted under this subsection are
15 permitted notwithstanding the fact that they provide for a payment of the
16 principal balance prior to the end of the period of amortization of the
17 loan. For residential mortgage loans, the eighty percent (80%) limitation
18 may be increased to ninety-seven percent (97%) if acceptable private
19 mortgage insurance has been obtained; or
- 20 3. Seventy-five percent (75%) of the fair market value of the real estate for
21 mortgage loans that do not meet the requirements of subparagraph 1. or
22 2. of this paragraph.
- 23 (b) For purposes of paragraph (a) of this subsection, the amount of an obligation
24 required to be included in the calculation of the loan-to-value ratio may be
25 reduced to the extent the obligation is insured by the Federal Housing
26 Administration, guaranteed by the Administrator of Veteran Affairs, or their
27 successors.

1 (c) A mortgage loan that is held by an insurer under KRS 304.7-014(7) or
2 acquired under this section and is restructured in a manner that meets the
3 requirements of a restructured mortgage loan in accordance with the NAIC
4 Accounting Practices and Procedures Manual or successor publication shall
5 continue to qualify as a mortgage loan under this subtitle.

6 (d) Subject to the limitations of KRS 304.7-403, credit lease transactions that do
7 not qualify for investment under KRS 304.7-405 with the following
8 characteristics shall be exempt from the provisions of paragraph (a) of this
9 subsection:

- 10 1. The loan amortizes over the initial fixed lease term at least in an amount
11 sufficient so that the loan balance at the end of the lease term does not
12 exceed the original appraised value of the real estate;
- 13 2. The lease payments cover or exceed the total debt service over the life of
14 the loan;
- 15 3. A tenant or its affiliated entity whose rated credit instruments have a
16 SVO 1 or 2 designation or a comparable rating from a nationally
17 recognized statistical rating organization recognized by the SVO has a
18 full faith and credit obligation to make the lease payments;
- 19 4. The insurer holds or is the beneficial holder of a first lien mortgage on
20 the real estate;
- 21 5. The expenses of the real estate are passed through to the tenant,
22 excluding exterior, structural, parking, and heating, ventilation, and air
23 conditioning replacement expenses, unless annual escrow contributions,
24 from cash flows derived from the lease payments, cover the expense
25 shortfall; and
- 26 6. There is a perfected assignment of the rents due in accordance with the
27 lease to or for the benefit of the insurer.

1 (2) (a) An insurer may acquire, manage, and dispose of real estate situated in a
 2 domestic jurisdiction either directly or indirectly through limited partnership
 3 interests and general partnership interests not otherwise prohibited by KRS
 4 304.7-363(4), joint ventures, stock of an investment subsidiary or membership
 5 interests in a limited liability company, trust certificates, or other similar
 6 instruments. The real estate shall be income producing or intended for
 7 improvement or development for investment purposes under an existing
 8 program in which case the real estate shall be deemed to be income producing.

9 (b) The real estate may be subject to mortgages, liens, or other encumbrances, the
 10 amount of which shall, to the extent that the obligations secured by the
 11 mortgages, liens, or encumbrances are without recourse to the insurer, be
 12 deducted from the amount of the investment of the insurer in the real estate for
 13 purposes of determining compliance with subsection (4)(b) and (c) of this
 14 section.

15 (3) (a) An insurer may acquire, manage, and dispose of real estate for the convenient
 16 accommodation of the insurer's, which may include its affiliates, business
 17 operations, including home office, branch office, and field office operations:

18 1. Real estate acquired under this subsection may include excess space for
 19 rent to others, if the excess space, valued at its fair market value, would
 20 otherwise be a permitted investment under subsection (2) of this section
 21 and is so qualified by the insurer;

22 2. The real estate acquired under this subsection may be subject to one (1)
 23 or more mortgages, liens, or other encumbrances, the amount of which
 24 shall, to the extent that the obligations secured by the mortgages, liens,
 25 or encumbrances are without recourse to the insurer, be deducted from
 26 the amount of the investment of the insurer in the real estate for
 27 purposes of determining compliance with paragraph (d) of subsection

1 (4) of this section; and

2 3. For purposes of this subsection, "business operations" shall not include
 3 that portion of real estate used for the direct provision of health care
 4 services by an accident and health insurer or its insured. An insurer may
 5 acquire real estate used for these purposes under subsection (2) of this
 6 section.

7 (4) (a) An insurer shall not acquire an investment under subsection (1) of this section
 8 if, as a result of and after giving effect to the investment, the aggregate amount
 9 of all investments then held by the insurer under subsection (1) of this section
 10 would exceed;

- 11 1. One percent (1%) of its admitted assets in mortgage loans covering any
 12 one (1) secured location;
- 13 2. One-quarter of one percent (0.25%) of its admitted assets in construction
 14 loans covering any one (1) secured location; or
- 15 3. Two percent (2%) of its admitted assets in construction loans in the
 16 aggregate.

17 (b) An insurer shall not acquire an investment under subsection (2) of this section
 18 if, as a result of and after giving effect to the investment and any outstanding
 19 guarantees made by the insurer in connection with the investment, the
 20 aggregate amount of investments then held by the insurer under subsection (2)
 21 of this section plus the guarantees then outstanding would exceed:

- 22 1. One percent (1%) of its admitted assets in one (1) parcel or group of
 23 contiguous parcels of real estate, except that this limitation shall not
 24 apply to that portion of real estate used for the direct provision of health
 25 care services by an accident and health insurer for its insureds, such as
 26 hospitals, medical clinics, medical professional buildings, or other health
 27 facilities used for the purpose of providing health services; or

2. Fifteen percent (15%) of its admitted assets in the aggregate, but not more than five percent (5%) of its admitted assets as to properties that are to be improved or developed.

(c) An insurer shall not acquire an investment under subsection (1) or (2) of this section if, as a result of and after giving effect to the investment and any guarantees made by the insurer in connection with the investment, the aggregate amount of all investments then held by the insurer under subsections (1) and (2) of this section plus the guarantees then outstanding would exceed forty-five percent (45%) of its admitted assets. However, an insurer may exceed this limitation by no more than thirty percent (30%) of its admitted assets if:

1. This increased amount is invested only in residential mortgage loans;
2. The insurer has no more than ten percent (10%) of its admitted assets invested in mortgage loans other than residential mortgage loans;
3. The loan-to-value ratio of each residential mortgage loan does not exceed sixty percent (60%) at the time the mortgage loan is qualified under this increased authority, and the fair market value is supported by an appraisal no more than two (2) years old, prepared by an independent appraiser;
4. A single mortgage loan qualified under this increased authority shall not exceed one-half of one percent (0.5%) of its admitted assets;
5. The insurer files with the commissioner~~executive director~~, and receives approval from the commissioner~~executive director~~ for, a plan that is designed to result in a portfolio of residential mortgage loans that is sufficiently geographically diversified; and
6. The insurer agrees to file annually with the commissioner~~executive director~~ records that demonstrate that its portfolio of residential

1 mortgage loans is geographically diversified in accordance with the plan.

2 (d) The limitations of KRS 304.7-403 shall not apply to an insurer's acquisition of
 3 real estate under subsection (3) of this section. An insurer shall not acquire
 4 real estate under subsection (3) of this section if, as a result of and after giving
 5 effect to the acquisition, the aggregate amount of real estate then held by the
 6 insurer under subsection (3) of this section would exceed ten percent (10%) of
 7 its admitted assets. With the permission of the commissioner~~executive~~
 8 ~~director~~, additional amounts of real estate may be acquired under subsection
 9 (3) of this section.

10 ➔Section 1018. KRS 304.7-415 is amended to read as follows:

11 An insurer may enter into securities lending, repurchase, reverse repurchase, and dollar
 12 roll transactions with business entities, subject to the following requirements:

13 (1) The insurer's board of directors shall adopt a written plan that is consistent with the
 14 requirements of the written plan in KRS 304.7-361 that specifies guidelines and
 15 objectives to be followed, such as:

16 (a) A description of how cash received will be invested or used for general
 17 corporate purposes of the insurer;

18 (b) Operational procedures to manage interest rate risk, counterparty default risk,
 19 the conditions under which proceeds from reverse repurchase transactions
 20 may be used in the ordinary course of business, and the use of acceptable
 21 collateral in a manner that reflects the liquidity needs of the transactions; and

22 (c) The extent to which the insurer may engage in these transactions.

23 (2) The insurer shall enter into a written agreement for all transactions authorized in
 24 this section other than dollar roll transactions. The written agreement shall require
 25 that each transaction terminate not more than one (1) year from its inception or
 26 upon the earlier demand of the insurer. The agreement shall be with the business
 27 entity counterparty, but for securities lending transactions, the agreement may be

1 with an agent acting on behalf of the insurer, if the agent is a qualified business
2 entity, and if the agreement:

3 (a) Requires the agent to enter into separate agreements with each counterparty
4 that are consistent with the requirements of this section; and

5 (b) Prohibits securities lending transactions under the agreement with the agent or
6 its affiliates.

7 (3) Cash received in a transaction under this section shall be invested in accordance
8 with this subtitle and in a manner that recognizes the liquidity needs of the
9 transaction or used by the insurer for its general corporate purposes. For so long as
10 the transaction remains outstanding, the insurer, its agent, or its custodian shall
11 maintain, as to acceptable collateral received in a transaction under this section,
12 either physically or through the book entry systems of the Federal Reserve,
13 Depository Trust Company, Participants Trust Company, or other securities
14 depositories approved by the commissioner~~[executive director]~~:

15 (a) Possession of the acceptable collateral;

16 (b) A perfected security interest in the acceptable collateral; or

17 (c) In the case of a jurisdiction outside of the United States, title to, or rights of a
18 secured creditor to, the acceptable collateral.

19 (4) The limitations of KRS 304.7-403 and 304.7-417 shall not apply to the business
20 entity counterparty exposure created by transactions under this section. For purposes
21 of calculations made to determine compliance with this subsection, no effect will be
22 given to the insurer's future obligation to resell securities, in the case of a repurchase
23 transaction, or to repurchase securities, in the case of a reverse repurchase
24 transaction. An insurer shall not enter into a transaction under this section if, as a
25 result of and after giving effect to the transaction:

26 (a) The aggregate amount of securities then loaned, sold to, or purchased from
27 any one (1) business entity counterparty under this section would exceed five

- 1 percent (5%) of its admitted assets. In calculating the amount sold to or
2 purchased from a business entity counterparty under repurchase or reverse
3 repurchase transactions, effect may be given to netting provisions under a
4 master written agreement; or
- 5 (b) The aggregate amount of all securities then loaned, sold to, or purchased from
6 all business entities under this section would exceed forty percent (40%) of its
7 admitted assets.
- 8 (5) In a securities lending transaction, the insurer shall receive acceptable collateral
9 having a market value as of the transaction date at least equal to one hundred two
10 percent (102%) of the market value of the securities loaned by the insurer in the
11 transaction as of that date. If at any time the market value of the acceptable
12 collateral is less than the market value of the loaned securities, the business entity
13 counterparty shall be obligated to deliver additional acceptable collateral, the
14 market value of which, together with the market value of all acceptable collateral
15 then held in connection with the transaction, at least equals one hundred two percent
16 (102%) of the market value of the loaned securities.
- 17 (6) In a reverse repurchase transaction, other than a dollar roll transaction, the insurer
18 shall receive acceptable collateral having a market value as of the transaction date at
19 least equal to ninety-five percent (95%) of the market value of the securities
20 transferred by the insurer in the transaction as of that date. If at any time the market
21 value of the acceptable collateral is less than ninety-five percent (95%) of the
22 market value of the securities so transferred, the business entity counterparty shall
23 be obligated to deliver additional acceptable collateral, the market value of which,
24 together with the market value of all acceptable collateral then held in connection
25 with the transaction, at least equals ninety-five percent (95%) of the market value of
26 the transferred securities.
- 27 (7) In a dollar roll transaction, the insurer shall receive cash in an amount at least equal

1 to the market value of the securities transferred by the insurer in the transaction as
2 of the transaction date.

- 3 (8) In a repurchase transaction, the insurer shall receive as acceptable collateral
4 transferred securities having a market value at least equal to one hundred two
5 percent (102%) of the purchase price paid by the insurer for the securities. If at any
6 time the market value of the acceptable collateral is less than one hundred percent
7 (100%) of the purchase price paid by the insurer, the business entity counterparty
8 shall be obligated to provide additional acceptable collateral, the market value of
9 which, together with the market value of all acceptable collateral then held in
10 connection with the transaction, at least equals one hundred two percent (102%) of
11 the purchase price. Securities acquired by an insurer in a repurchase transaction
12 shall not be sold in a reverse repurchase transaction, loaned in a securities lending
13 transaction, or otherwise pledged.

14 ➔Section 1019. KRS 304.7-419 is amended to read as follows:

15 An insurer may, directly or indirectly through an investment subsidiary, engage in
16 derivative transactions under this section under the following conditions:

- 17 (1) (a) An insurer may use derivative instruments under this section to engage in
18 hedging transactions and certain income generation transactions, as these
19 terms may be further defined in regulations promulgated by the
20 commissioner~~executive director~~; and
21 (b) An insurer shall be able to demonstrate to the commissioner~~executive~~
22 ~~director~~ the intended hedging characteristics and the ongoing effectiveness of
23 the derivative transaction or combination of the transactions through cash flow
24 testing or other appropriate analyses.
25 (2) An insurer may enter into hedging transactions under this section if, as a result of
26 and after giving effect to the transaction:
27 (a) The aggregate statement value of options, caps, floors, and warrants not

1 attached to another financial instrument purchased and used in hedging
2 transactions does not exceed seven and one-half percent (7.5%) of its admitted
3 assets;

4 (b) The aggregate statement value of options, caps, and floors written in hedging
5 transactions does not exceed three percent (3%) of its admitted assets; and

6 (c) The aggregate potential exposure of collars, swaps, forwards, and futures used
7 in hedging transactions does not exceed six and one-half percent (6.5%) of its
8 admitted assets.

9 (3) An insurer may only enter into the following types of income generation
10 transactions if, as a result of and after giving effect to the transactions, the aggregate
11 statement value of the fixed income assets that are subject to call or that generate
12 the cash flows for payments under the caps or floors, plus the face value of fixed
13 income securities underlying a derivative instrument subject to call, plus the amount
14 of the purchase obligations under the puts, does not exceed ten percent (10%) of its
15 admitted assets:

16 (a) Sales of covered call options on noncallable fixed income securities, callable
17 fixed income securities if the option expires by its terms prior to the end of the
18 noncallable period, or derivative instruments based on fixed income
19 securities;

20 (b) Sales of covered call options on equity securities, if the insurer holds in its
21 portfolio, or can immediately acquire through the exercise of options,
22 warrants, or conversion rights already owned, the equity securities subject to
23 call during the complete term of the call options sold;

24 (c) Sales of covered puts on investments that the insurer is permitted to acquire
25 under this subtitle, if the insurer has escrowed or entered into a custodian
26 agreement segregating cash or cash equivalents with a market value equal to
27 the amount of its purchase obligations under the put during the complete term

1 of the put option sold; or

2 (d) Sales of covered caps or floors, if the insurer holds in its portfolio the
3 investments generating the cash flow to make the required payments under the
4 caps or floors during the complete term that the cap or floor is outstanding.

5 (4) An insurer shall include all counterparty exposure amounts in determining
6 compliance with the limitations of KRS 304.7-403.

7 (5) In accordance with administrative regulations promulgated under KRS 304.7-367,
8 the commissioner~~executive director~~ may approve additional transactions
9 involving the use of derivative instruments in excess of the limits of subsection (2)
10 of this section or for other risk management purposes under administrative
11 regulations promulgated by the commissioner~~executive director~~, but replication
12 transactions shall not be permitted for other than risk management purposes.

13 ➔Section 1020. KRS 304.7-423 is amended to read as follows:

14 (1) Solely for the purpose of acquiring investments that exceed the quantitative
15 limitations of KRS 304.7-403, 304.7-405, 304.7-407, 304.7-409, 304.7-411, 304.7-
16 413, 304.7-415, and 304.7-417, an insurer may acquire under this subsection an
17 investment, or engage in investment practices described in KRS 304.7-415, but an
18 insurer shall not acquire an investment, or engage in investment practices described
19 in KRS 304.7-415, under this subsection if, as a result of and after giving effect to
20 the transaction:

21 (a) The aggregate amount of investments then held by an insurer under this
22 subsection would exceed three percent (3%) of its admitted assets; or

23 (b) The aggregate amount of investments as to one (1) limitation in KRS 304.7-
24 403, 304.7-405, 304.7-407, 304.7-409, 304.7-411, 304.7-413, 304.7-415, and
25 304.7-417 then held by the insurer under this subsection would exceed one
26 percent (1%) of its admitted assets.

27 (2) (a) In addition to the authority provided under subsection (1) of this section, an

insurer may acquire under this subsection an investment of any kind, or engage in investment practices described in KRS 304.7-415, that are not specifically prohibited by this subtitle, without regard to the categories, conditions, standards, or other limitations of KRS 304.7-403, 304.7-405, 304.7-407, 304.7-409, 304.7-411, 304.7-413, 304.7-415, and 304.7-417 if, as a result of and after giving effect to the transaction, the aggregate amount of investments then held under this subsection would not exceed the lesser of:

1. Ten percent (10%) of its admitted assets; or
2. Seventy-five percent (75%) of its capital and surplus.

(b) However, an insurer shall not acquire any investment or engage in any investment practice under this subsection if, as a result of and after giving effect to the transaction, the aggregate amount of all investments in any one (1) person then held by the insurer under this subsection would exceed three percent (3%) of its admitted assets.

(3) In addition to the investments acquired under subsections (1) and (2) of this section, an insurer may acquire under this subsection an investment of any kind, or engage in investment practices described in KRS 304.7-415, that are not specifically prohibited by this subtitle without regard to any limitations of KRS 304.7-403, 304.7-405, 304.7-407, 304.7-409, 304.7-411, 304.7-413, 304.7-415, and 304.7-417 if:

- (a) The commissioner~~executive director~~ grants prior approval;
- (b) The insurer demonstrates that its investments are being made in a prudent manner and that the additional amounts will be invested in a prudent manner; and
- (c) As a result of and after giving effect to the transaction, the aggregate amount of investments then held by the insurer under this subsection does not exceed the greater of:

- 1 1. Twenty-five percent (25%) of its capital and surplus; or
- 2 2. One hundred percent (100%) of capital and surplus less ten percent
- 3 (10%) of its admitted assets.

4 (4) An investment prohibited under KRS 304.7-363, not permitted under KRS 304.7-
5 419, or additional derivative instruments acquired under KRS 304.7-419 shall not
6 be acquired under this section.

7 ➔Section 1021. KRS 304.7-453 is amended to read as follows:

8 (1) Subject to all other limitations and requirements of this subtitle, a property and
9 casualty, financial guaranty, mortgage guaranty, or accident and health insurer shall
10 maintain an amount at least equal to one hundred percent (100%) of adjusted loss
11 reserves and loss adjustment expense reserves, one hundred percent (100%) of
12 adjusted unearned premium reserves, and one hundred percent (100%) of statutorily
13 required policy and contract reserves in:

- 14 (a) Cash and cash equivalents;
- 15 (b) High and medium grade investments that qualify under KRS 304.7-457 or
- 16 304.7-459;
- 17 (c) Equity interests that qualify under KRS 304.7-461 and that are traded on a
- 18 qualified exchange;
- 19 (d) Investments of the type set forth in KRS 304.7-469, if the investments are
- 20 rated in the highest generic rating category by a nationally recognized
- 21 statistical rating organization recognized by the SVO for rating foreign
- 22 jurisdictions and if any foreign currency exposure is effectively hedged
- 23 through the maturity date of the investments;
- 24 (e) Qualifying investments of the type set forth in paragraph (b), (c), or (d) of this
- 25 subsection that are acquired under KRS 304.7-473;
- 26 (f) Interest and dividends receivable on qualifying investments of the type set
- 27 forth in paragraphs (a) to (e) of this subsection; or

- 1 (g) Reinsurance recoverable on paid losses.
- 2 (2) Determination of the reserve requirement amount shall be as follows:
- 3 (a) For purposes of determining the amount of assets to be maintained under this
- 4 subsection, the calculation of adjusted loss reserves and loss adjustment
- 5 expense reserves, adjusted unearned premium reserves, and statutorily
- 6 required policy and contract reserves shall be based on the amounts reported
- 7 as of the most recent annual or quarterly statement date;
- 8 (b) Adjusted loss reserves and loss adjustment expense reserves shall be equal to
- 9 the sum of the amounts derived from the following calculations:
- 10 1. The result of each amount reported by the insurer as losses and loss
- 11 adjustment expenses unpaid for each accident year for each individual
- 12 line of business; multiplied by
- 13 2. The discount factor that is applicable to the line of business and accident
- 14 year published by the Internal Revenue Service under Internal Revenue
- 15 Code Section 846 (26 U.S.C. sec. 846), as amended, for the calendar
- 16 year that corresponds to the most recent annual statement of the insurer;
- 17 minus
- 18 3. Accrued retrospective premiums discounted by an average discount
- 19 factor. The discount factor shall be calculated by dividing the losses and
- 20 loss adjustment expenses unpaid after discounting (the product of
- 21 subparagraphs 1. and 2. of this paragraph) by loss and loss adjustment
- 22 expense reserves before discounting subparagraph 1. of this paragraph;
- 23 and
- 24 4. For purposes of these calculations, the losses and loss adjustment
- 25 expenses unpaid shall be determined net of anticipated salvage and
- 26 subrogation, and gross of any discount for the time value of money or
- 27 tabular discount.

- 1 (c) Adjusted unearned premium reserves shall be equal to the result of the
 2 following calculation:
- 3 1. The amount reported by the insurer as unearned premium reserves;
 4 minus
 - 5 2. The admitted asset amounts reported by the insurer as:
 - 6 a. Premiums in and agents' balances in the course of collection,
 7 accident and health premiums due and unpaid, and uncollected
 8 premiums for accident and health premiums;
 - 9 b. Premiums, agents' balances, and installments booked but deferred
 10 and not yet due; and
 - 11 c. Bills receivable, taken for premium.
- 12 (d) Statutorily required policy and contract reserves also shall include, in the case
 13 of a title insurer, the amounts required by KRS 304.6-080 and, in the case of a
 14 mortgage guaranty insurer, the amounts required by KRS 304.6-090 and, in
 15 the case of an accident and health insurer, the amounts required by KRS
 16 304.6-070.
- 17 (3) A property and casualty, financial guaranty, mortgage guaranty, or accident and
 18 health insurer shall supplement its annual statement with a reconciliation and
 19 summary of its assets and reserve requirements as required in subsection (1) of this
 20 section. A reconciliation and summary showing that an insurer's assets as required
 21 in subsection (1) of this section are greater than or equal to its undiscounted
 22 reserves referred to in subsection (1) of this section shall be sufficient to satisfy this
 23 requirement. Upon prior notification, the commissioner~~executive director~~ may
 24 require an insurer to submit a reconciliation and summary with any quarterly
 25 statement filed during the calendar year.
- 26 (4) If a property and casualty, financial guaranty, mortgage guaranty, or accident and
 27 health insurer's assets and reserves do not comply with subsection (1) of this

section, the insurer shall notify the commissioner~~[executive director]~~ immediately of the amount by which the reserve requirements exceed the annual statement value of the qualifying assets, explain why the deficiency exists, and within thirty (30) days of the date of the notice propose a plan of action to remedy the deficiency.

(5) If the commissioner~~[executive director]~~ determines that an insurer is not in compliance with subsection (1) of this section, the commissioner~~[executive director]~~ shall require the insurer to eliminate the condition causing the noncompliance within a specified time from the date the notice of the commissioner's~~[executive director's]~~ requirement is mailed or delivered to the insurer.

(6) If an insurer fails to comply with the commissioner's~~[executive director's]~~ requirement under subsection (5) of this section, the insurer is deemed to be in hazardous financial condition, and the commissioner~~[executive director]~~ shall take one (1) or more of the actions authorized by Subtitle 33 of KRS Chapter 304, and KRS 304.3-200.

➔ Section 1022. KRS 304.7-459 is amended to read as follows:

(1) An insurer may acquire investments in investment pools that:

(a) Invest only in:

1. Obligations that are rated 1 or 2 by the SVO or have an equivalent of an SVO 1 or 2 rating or, in the absence of a 1 or 2 rating or equivalent rating, the issuer has outstanding obligations with an SVO 1 or 2 equivalent rating by a nationally recognized statistical rating organization recognized by the SVO and have:

a. A remaining maturity of three hundred ninety-seven (397) days or less or a put that entitles the holder to receive the principal amount of the obligation which put may be exercised through maturity at specified intervals not exceeding three hundred ninety-seven (397)

1 days; or

2 b. A remaining maturity of three (3) years or less and a floating
3 interest rate that resets no less frequently than quarterly on the
4 basis of a current short-term index (federal funds, prime rate,
5 treasury bills, London InterBank Offered Rate (LIBOR), or
6 commercial paper) and is subject to no maximum limit, if the
7 obligations do not have an interest rate that varies inversely to
8 market interest rate changes;

9 2. Government money market mutual funds or class one money market
10 mutual funds; or

11 3. Securities lending, repurchase, and reverse repurchase transactions that
12 meet all the requirements of KRS 304.7-467, except the quantitative
13 limitations of KRS 304.7-467(4); or

14 (b) Invest only in investments that an insurer may acquire under this subtitle, if
15 the insurer's proportionate interest in the amount invested in these investments
16 does not exceed the applicable limits of this subtitle.

17 (2) For an investment in an investment pool to be qualified under this subtitle, the
18 investment pool shall not:

19 (a) Acquire securities issued, assumed, guaranteed, or insured by the insurer or an
20 affiliate of the insurer;

21 (b) Borrow or incur any indebtedness for borrowed money, except for securities
22 lending and reverse repurchase transactions that meet the requirements of
23 KRS 304.7-467, except the quantitative limitations of KRS 304.7-467(4); or

24 (c) Permit the aggregate value of securities then loaned or sold to, purchased
25 from, or invested in any one (1) business entity under this section to exceed
26 ten percent (10%) of the total assets of the investment pool.

27 (3) The limitations of KRS 304.7-455(1) to (3) shall not apply to an insurer's

1 investment in an investment pool, however an insurer shall not acquire an
 2 investment in an investment pool under this section if, as a result of and after giving
 3 effect to the investment, the aggregate amount of investments then held by the
 4 insurer under this section:

5 (a) In any one (1) investment pool would exceed ten percent (10%) of its admitted
 6 assets;

7 (b) In all investment pools investing in investments permitted under paragraph (b)
 8 of subsection (1) of this section would exceed twenty-five percent (25%) of its
 9 admitted assets; or

10 (c) In all investment pools would exceed forty percent (40%) of its admitted
 11 assets.

12 (4) For an investment in an investment pool to be qualified under this subtitle, the
 13 manager of the investment pool shall:

14 (a) Be organized under the laws of the United States or a state and designated as
 15 the pool manager in a pooling agreement;

16 (b) Be the insurer, an affiliated insurer or a business entity affiliated with the
 17 insurer, a qualified bank, a business entity registered under the Investment
 18 Advisors Act of 1940 (15 U.S.C. sec. 80a-1 et seq.), as amended or, in the
 19 case of a reciprocal insurer or interinsurance exchange, its attorney-in-fact, or
 20 in the case of a United States branch of an alien insurer, its United States
 21 manager or affiliates or subsidiaries of its United States manager;

22 (c) Compile and maintain detailed accounting records setting forth:

23 1. The cash receipts and disbursements reflecting each participant's
 24 proportionate investment in the investment pool;

25 2. A complete description of all underlying assets of the investment pool,
 26 including amount, interest rate, maturity date if any, and other
 27 appropriate designations; and

- 1 3. Other records that, on a daily basis, allow third parties to verify each
- 2 participant's investment in the investment pool; and
- 3 (d) Maintain the assets of the investment pool in one (1) or more accounts, in the
- 4 name of or on behalf of the investment pool, under a custody agreement with a
- 5 qualified bank. The custody agreement shall:
- 6 1. State and recognize the claims and rights of each participant;
- 7 2. Acknowledge that the underlying assets of the investment pool are held
- 8 solely for the benefit of each participant in proportion to the aggregate
- 9 amount of its investment in the investment pool; and
- 10 3. Contain an agreement that the underlying assets of the investment pool
- 11 shall not be commingled with the general assets of the custodian
- 12 qualified bank or any other person.
- 13 (5) The pooling agreement for each investment pool shall be in writing and shall
- 14 provide that:
- 15 (a) An insurer and its affiliated insurers or, in the case of an investment pool
- 16 investing solely in investments permitted under paragraph (a) of subsection
- 17 (1) of this section, the insurer and its subsidiaries, affiliates, or any pension or
- 18 profit sharing plan of the insurer, its subsidiaries and affiliates or, in the case
- 19 of a United States branch of an alien insurer, affiliates or subsidiaries of its
- 20 United States manager, shall, at all times, hold one hundred percent (100%) of
- 21 the interests in the investment pool;
- 22 (b) The underlying assets of the investment pool shall not be commingled with
- 23 the general assets of the pool manager or any other person;
- 24 (c) In proportion to the aggregate amount of each pool participant's interest in the
- 25 investment pool:
- 26 1. Each participant owns an undivided interest in the underlying assets of
- 27 the investment pool; and

2. The underlying assets of the investment pool are held solely for the benefit of each participant;

(d) A participant, or in the event of the participant's insolvency, bankruptcy, or receivership, its trustee, receiver, or other successor-in-interest, may withdraw all or any portion of its investment from the investment pool under the terms of the pooling agreement;

(e) Withdrawals may be made on demand without penalty or other assessment on any business day, but settlement of funds shall occur within a reasonable and customary period thereafter not to exceed five (5) business days. Distributions under this paragraph shall be calculated in each case net of all then applicable fees and expenses of the investment pool. The pooling agreement shall provide that the pool manager shall distribute to a participant, at the discretion of the pool manager:

1. In cash, the then fair market value of the participant's pro rata share of each underlying asset of the investment pool;

2. In kind, a pro rata share of each underlying asset; or

3. In a combination of cash and in-kind distributions, a pro rata share in each underlying asset; and

(f) The pool manager shall make the records of the investment pool available for inspection by the commissioner~~[executive director]~~.

→ Section 1023. KRS 304.7-465 is amended to read as follows:

(1) Subject to the limitations of KRS 304.7-455, an insurer may acquire, either directly or indirectly through limited partnership interests and general partnership interests not otherwise prohibited by KRS 304.7-363(4), joint ventures, stock of an investment subsidiary or membership interests in a limited liability company, trust certificates, or other similar instruments, obligations secured by mortgages on real estate situated within a domestic jurisdiction, but a mortgage loan that is secured by

1 other than a first lien shall not be acquired unless the insurer is the holder of the first
2 lien. The obligations held by the insurer and any obligations with an equal lien
3 priority, shall not, at the time of acquisition of the obligation, exceed:

4 (a) Ninety percent (90%) of the fair market value of the real estate, if the
5 mortgage loan is secured by a purchase money mortgage or like security
6 received by the insurer upon disposition of the real estate;

7 (b) Eighty percent (80%) of the fair market value of the real estate, if the
8 mortgage loan requires immediate scheduled payments in periodic
9 installments of principal and interest, has an amortization period of thirty (30)
10 years or less, and periodic payments made no less frequently than annually.
11 Each periodic payment shall be sufficient to assure that at all times the
12 outstanding principal balance of the mortgage loan shall not be greater than
13 the outstanding principal balance that would be outstanding under a mortgage
14 loan with the same original principal balance, with the same interest rate, and
15 requiring equal payments of principal and interest with the same frequency
16 over the same amortization period. Mortgage loans permitted under this
17 subsection are permitted notwithstanding the fact that they provide for a
18 payment of the principal balance prior to the end of the period of amortization
19 of the loan. For residential mortgage loans, the eighty percent (80%) limitation
20 may be increased to ninety-seven percent (97%) if acceptable private
21 mortgage insurance has been obtained; or

22 (c) Seventy-five percent (75%) of the fair market value of the real estate for
23 mortgage loans that do not meet the requirements of paragraph (a) or (b) of
24 this subsection.

25 (2) For purposes of subsection (1) of this section, the amount of an obligation required
26 to be included in the calculation of the loan-to-value ratio may be reduced to the
27 extent the obligation is insured by the Federal Housing Administration, guaranteed

- 1 by the Administrator of Veteran Affairs, or their successors.
- 2 (3) A mortgage loan that is held by an insurer under KRS 304.7-014(7) or acquired
3 under this section and is restructured in a manner that meets the requirement of a
4 restructured mortgage loan in accordance with the NAIC Accounting Practices and
5 Procedures Manual or successor publication shall continue to qualify as a mortgage
6 loan under this subtitle.
- 7 (4) Subject to the limitations of KRS 304.7-455, credit lease transactions that do not
8 qualify for investment under KRS 304.7-457 with the following characteristics shall
9 be exempt from the provisions of subsection (1) of this section:
- 10 (a) The loan amortizes over the initial fixed lease term at least in an amount
11 sufficient so that the loan balance at the end of the lease term does not exceed
12 the original appraised value of the real estate;
- 13 (b) The lease payments cover or exceed the total debt service over the life of the
14 loan;
- 15 (c) A tenant or its affiliated entity whose rated credit instruments have a SVO 1 or
16 2 designation or a comparable rating from a nationally recognized statistical
17 rating organization recognized by the SVO has a full faith and credit
18 obligation to make the lease payments;
- 19 (d) The insurer holds or is the beneficial holder of a first lien mortgage on the real
20 estate;
- 21 (e) The expenses of the real estate are passed through to the tenant excluding
22 exterior, structural, parking, and heating, ventilation and air conditioning
23 replacement expenses, unless annual escrow contributions, from cash flows
24 derived from the lease payments, cover the expense shortfall; and
- 25 (f) There is a perfected assignment of the rents due under the lease to or for the
26 benefit of the insurer.
- 27 (5) An insurer may acquire, manage, and dispose of real estate situated in a domestic

1 jurisdiction either directly or indirectly through limited partnership interests and
2 general partnership interests not otherwise prohibited by KRS 304.7-363(4), joint
3 ventures, stock of an investment subsidiary or membership interests in a limited
4 liability company, trust certificates, or other similar instruments. The real estate
5 shall be income producing or intended for improvement or development for
6 investment purposes under an existing program, in which case the real estate shall
7 be deemed to be income producing.

8 (6) The real estate may be subject to mortgages, liens, or other encumbrances, the
9 amount of which shall, to the extent that the obligations secured by the mortgages,
10 liens, or encumbrances are without recourse to the insurer, be deducted from the
11 amount of the investment of the insurer in the real estate for purposes of
12 determining compliance with subsections (9) and (10) of this section.

13 (7) An insurer may acquire, manage, and dispose of real estate for the convenient
14 accommodation of the insurer's, which may include its affiliates, business
15 operations, including home office, branch office, and field office operations.

16 (a) Real estate acquired under this subsection may include excess space for rent to
17 others if the excess space, valued at its fair market value, would otherwise be
18 a permitted investment under subsections (5) and (6) of this section and is so
19 qualified by the insurer;

20 (b) The real estate acquired under this subsection may be subject to one (1) or
21 more mortgages, liens, or other encumbrances, the amount of which shall, to
22 the extent that the obligations secured by the mortgages, liens, or
23 encumbrances are without recourse to the insurer, be deducted from the
24 amount of the investment of the insurer in the real estate for purposes of
25 determining compliance with subsection (11) of this section; and

26 (c) For purposes of this subsection, "business operations" shall not include that
27 portion of real estate used for the direct provision of health care services by an

insurer whose insurance premiums and required statutory reserves for accident and health insurance constitute at least ninety-five percent (95%) of total premium considerations or total statutory required reserves, respectively. An insurer may acquire real estate used for these purposes under subsections (5) and (6) of this section.

(8) An insurer shall not acquire an investment under subsections (1) to (4) of this section if, as a result of and after giving effect to the investment, the aggregate amount of all investments then held by the insurer under subsections (1) to (4) of this section would exceed:

- (a) One percent (1%) of its admitted assets in mortgage loans covering any one (1) secured location;
- (b) One-quarter of one percent (0.25%) of its admitted assets in construction loans covering any one (1) secured location; or
- (c) One percent (1%) of its admitted assets in construction loans in the aggregate.

(9) An insurer shall not acquire an investment under subsections (5) and (6) of this section if, a result of and after giving effect to the investment and any outstanding guarantees made by the insurer in connection with the investment, the aggregate amount of investments then held by the insurer under subsections (5) and (6) of this section plus the guarantees then outstanding would exceed:

- (a) One percent (1%) of its admitted assets in any one (1) parcel or group of contiguous parcels of real estate, except that this limitation shall not apply to that portion of real estate used for the direct provision of health care services by an insurer whose insurance premiums and required statutory reserves for accident and health insurance constitute at least ninety-five percent (95%) of total premium considerations or total statutory required reserves, respectively, such as hospitals, medical clinics, medical professional buildings, or other health facilities used for the purpose of providing health services; or

(b) The lesser of ten percent (10%) of its admitted assets or forty percent (40%) of its surplus as regards policyholders in the aggregate, except for an insurer whose insurance premiums and required statutory reserves for accident and health insurance constitute at least ninety-five percent (95%) of total premium considerations or total statutory required reserves, respectively, this limitation shall be increased to fifteen percent (15%) of its admitted assets in the aggregate.

(10) An insurer shall not acquire an investment under subsections (1) to (6) of this section if, as a result of and after giving effect to the investment and any guarantees it has made in connection with the investment, the aggregate amount of all investments then held by the insurer under subsections (1) to (6) of this section plus the guarantees then outstanding would exceed twenty-five percent (25%) of its admitted assets.

(11) The limitations of KRS 304.7-455 shall not apply to an insurer's acquisition of real estate under subsection (7) of this section. An insurer shall not acquire real estate under subsection (7) of this section if, as a result of and after giving effect to the acquisition, the aggregate amount of all real estate then held by the insurer under subsection (7) of this section would exceed ten percent (10%) of its admitted assets.

With the permission of the commissioner~~[executive director]~~, additional amounts of real estate may be acquired under subsection (7) of this section.

→Section 1024. KRS 304.7-467 is amended to read as follows:

An insurer may enter into securities lending, repurchase, reverse repurchase and dollar roll transactions with business entities, subject to the following requirements:

(1) The insurer's board of directors shall adopt a written plan that is consistent with the requirements of the written plan in KRS 304.7-361(1) that specifies guidelines and objectives to be followed, such as:

(a) A description of how cash received will be invested or used for general

- 1 corporate purposes of the insurer;
- 2 (b) Operational procedures to manage interest rate risk, counterparty default risk,
- 3 the conditions under which proceeds from reverse repurchase transactions
- 4 may be used in the ordinary course of business, and the use of acceptable
- 5 collateral in a manner that reflects the liquidity needs of the transaction; and
- 6 (c) The extent to which the insurer may engage in these transactions.
- 7 (2) The insurer shall enter into a written agreement for all transactions authorized in
- 8 this section other than dollar roll transactions. The written agreement shall require
- 9 that each transaction terminate not more than one (1) year from its inception or
- 10 upon the earlier demand of the insurer. The agreement shall be with the business
- 11 entity counterparty, but for securities lending transactions, the agreement may be
- 12 with an agent acting on behalf of the insurer, if the agent is a qualified business
- 13 entity, and if the agreement:
- 14 (a) Requires the agent to enter into separate agreements with each counterparty
- 15 that are consistent with the requirements of this section; and
- 16 (b) Prohibits securities lending transactions under the agreement with the agent or
- 17 its affiliates.
- 18 (3) Cash received in a transaction under this section shall be invested in accordance
- 19 with this subtitle and in a manner that recognizes the liquidity needs of the
- 20 transaction or used by the insurer for its general corporate purposes. For so long as
- 21 the transaction remains outstanding, the insurer, its agent, or custodian shall
- 22 maintain, as to acceptable collateral received in a transaction under this section,
- 23 either physically or through the book entry systems of the Federal Reserve,
- 24 Depository Trust Company, Participants Trust Company, or other securities
- 25 depositories approved by the commissioner~~[executive director]~~:
- 26 (a) Possession of the acceptable collateral;
- 27 (b) A perfected security interest in the acceptable collateral; or

- 1 (c) In the case of a jurisdiction outside of the United States, title to, or rights of a
2 secured creditor to, the acceptable collateral.
- 3 (4) The limitations of KRS 304.7-455 and 304.7-469 shall not apply to the business
4 entity counterparty exposure created by transactions under this section. For purposes
5 of calculations made to determine compliance with this subsection, no effect will be
6 given to the insurer's future obligation to resell securities, in the case of a repurchase
7 transaction, or to repurchase securities, in the case of a reverse repurchase
8 transaction. An insurer shall not enter into a transaction under this section if, as a
9 result of and after giving effect to the transaction:
- 10 (a) The aggregate amount of securities then loaned, sold to, or purchased from
11 any one (1) business entity counterparty under this section would exceed five
12 percent (5%) of its admitted assets. In calculating the amount sold to or
13 purchased from a business entity counterparty under repurchase or reverse
14 repurchase transactions, effect may be given to netting provisions under a
15 master written agreement; or
- 16 (b) The aggregate amount of all securities then loaned, sold to, or purchased from
17 all business entities under this section would exceed forty percent (40%) of its
18 admitted assets, but the limitation of this subsection shall not apply to reverse
19 repurchase transactions for so long as the borrowing is used to meet
20 operational liquidity requirements resulting from an officially declared
21 catastrophe and subject to a plan approved by the commissioner~~executive~~
22 ~~director~~.
- 23 (5) In a securities lending transaction, the insurer shall receive acceptable collateral
24 having a market value as of the transaction date at least equal to one hundred two
25 percent (102%) of the market value of the securities loaned by the insurer in the
26 transaction as of that date. If at any time the market value of the acceptable
27 collateral is less than the market value of the loaned securities, the business entity

1 counterparty shall be obligated to deliver additional acceptable collateral, the
2 market value of which, together with the market value of all acceptable collateral
3 then held in connection with the transaction, at least equals one hundred two percent
4 (102%) of the market value of the loaned securities.

5 (6) In a reverse repurchase transaction, other than a dollar roll transaction, the insurer
6 shall receive acceptable collateral having a market value as of the transaction date at
7 least equal to ninety-five percent (95%) of the market value of the securities
8 transferred by the insurer in the transaction as of that date. If at any time the market
9 value of the acceptable collateral is less than ninety-five percent (95%) of the
10 market value of the securities so transferred, the business entity counterparty shall
11 be obligated to deliver additional acceptable collateral, the market value of which,
12 together with the market value of all acceptable collateral then held in connection
13 with the transaction, at least equals ninety-five percent (95%) of the market value of
14 the transferred securities.

15 (7) In a dollar roll transaction, the insurer shall receive cash in an amount at least equal
16 to the market value of the securities transferred by the insurer in the transaction as
17 of the transaction date.

18 (8) In a repurchase transaction, the insurer shall receive as acceptable collateral
19 transferred securities having a market value at least equal to one hundred two
20 percent (102%) of the purchase price paid by the insurer for the securities. If at any
21 time the market value of the acceptable collateral is less than one hundred percent
22 (100%) of the purchase price paid by the insurer, the business entity counterparty
23 shall be obligated to provide additional acceptable collateral, the market value of
24 which, together with the market value of all acceptable collateral then held in
25 connection with the transaction, at least equals one hundred two percent (102%) of
26 the purchase price. Securities acquired by an insurer in a repurchase transaction
27 shall not be sold in a reverse repurchase transaction, loaned in a securities lending

transaction, or otherwise pledged.

➔Section 1025. KRS 304.7-471 is amended to read as follows:

(1) An insurer may, directly or indirectly through an investment subsidiary, engage in derivative transactions under this section under the following conditions:

(a) An insurer may use derivative instruments under this section to engage in hedging transactions and certain income generation transactions, as these terms may be further defined in administrative regulations promulgated by the commissioner~~executive director~~.

(b) An insurer shall be able to demonstrate to the commissioner~~executive director~~ the intended hedging characteristics and the ongoing effectiveness of the derivative transaction or combination of transactions through cash flow testing or other appropriate analyses.

(2) An insurer may enter into hedging transactions under this section if, as a result of and after giving effect to the transaction:

(a) The aggregate statement value of options, caps, floors, and warrants not attached to another financial instrument purchased and used in hedging transactions does not exceed seven and one-half percent (7.5%) of its admitted assets;

(b) The aggregate statement value of options, caps, and floors written in hedging transactions does not exceed three percent (3%) of its admitted assets; and

(c) The aggregate potential exposure of collars, swaps, forwards, and futures used in hedging transactions does not exceed six and one-half percent (6.5%) of its admitted assets.

(3) An insurer may only enter into the following types of income generation transactions if, as a result of and after giving effect to the transactions, the aggregate statement value of the fixed income assets that are subject to call plus the face value of fixed income securities underlying a derivative instrument subject to call, plus

the amount of the purchase obligations under the puts, does not exceed ten percent (10%) of its admitted assets:

(a) Sales of covered call options on noncallable fixed income securities, callable fixed income securities if the option expires by its terms prior to the end of the noncallable period, or derivative instruments based on fixed income securities;

(b) Sales of covered call options on equity securities, if the insurer holds in its portfolio, or can immediately acquire through the exercise of options, warrants, or conversion rights already owned, the equity securities subject to call during the complete term of the call option sold; or

(c) Sales of covered puts on investments that the insurer is permitted to acquire under this subtitle, if the insurer has escrowed, or entered into a custodian agreement segregating, cash or cash equivalents with a market value equal to the amount of its purchase obligations under the put during the complete term of the put option sold.

(4) An insurer shall include all counterparty exposure amounts in determining compliance with the limitations of KRS 304.7-455.

(5) In accordance with administrative regulations promulgated under KRS 304.7-367, the commissioner~~executive director~~ may approve additional transactions involving the use of derivative instruments in excess of the limits of subsection (2) of this section or for other risk management purposes under administrative regulations promulgated by the commissioner~~executive director~~, but replication transactions shall not be permitted for other than risk management purposes.

➔Section 1026. KRS 304.8-010 is amended to read as follows:

(1) All deposits of assets of insurers required or permitted under this code and made in this state shall be made and maintained with the commissioner~~executive director~~.

(2) In addition to deposits required for an insurer's authority to transact insurance in this

1 state, an insurer may deposit and maintain with the commissioner~~executive~~
2 ~~director~~ deposit of assets:

3 (a) Required of an insurer by the laws of other states as prerequisite for authority
4 to transact insurance in such other states.

5 (b) Required by application of the retaliatory provision, KRS 304.3-270.

6 (c) In such additional amounts as is permitted by this subtitle, or as expressly
7 required by this code.

8 ➔Section 1027. KRS 304.8-020 is amended to read as follows:

9 (1) All deposits shall be held by the commissioner~~executive director~~ in trust for the
10 benefit and protection of all of the insurer's policyholders and creditors in the
11 United States.

12 (2) The deposit of a domestic insurer shall further be security for payment of taxes,
13 assessments, forfeitures, fines, or other charges due and unpaid to this state or any
14 other state in which the insurer has been authorized to transact insurance, and may
15 be applied to the extent as may be necessary for payment.

16 (3) Except, that deposits required pursuant to the retaliatory provision, KRS 304.3-270,
17 or required of a domestic insurer pursuant to the laws of another state, may be
18 limited to the uses and purposes as are consistent with the provision or laws. But no
19 deposit so required of a domestic insurer shall be allowed in lieu of or as a credit
20 upon any deposit required of an insurer under this subtitle if the purpose of the
21 deposit so required by another state is materially inconsistent with the purpose
22 stated in subsection (1) of this section.

23 ➔Section 1028. KRS 304.8-040 is amended to read as follows:

24 (1) The commissioner~~executive director~~ may accept the home office real property of
25 a domestic insurer as a part of any deposit of assets required of the insurer under
26 this code. For this purpose the insurer shall convey such real property by deed to the
27 commissioner~~executive director~~, and the deed shall be duly recorded and

1 deposited with the commissioner~~[executive director]~~.

2 (2) Real property so deposited shall not be sold or further encumbered by the insurer
3 except upon advance approval of the commissioner~~[executive director]~~ after full
4 submission of the purposes and detail of the sale or encumbrance to the
5 commissioner~~[executive director]~~. The commissioner~~[executive director]~~ shall join
6 in the execution of any deed or other document required to consummate the sale or
7 encumbrance. Upon the sale or encumbrance the insurer shall deposit other assets in
8 lieu of such real property.

9 (3) This real property shall be valued at its fair value as determined by the
10 commissioner~~[executive director]~~.

11 ➔Section 1029. KRS 304.8-050 is amended to read as follows:

12 (1) The insurer's policyholders and creditors in the United States, and this state and
13 other states in which the insurer is authorized to transact insurance, shall have a first
14 lien upon other real property, of which the evidence of the insurer's title is deposited
15 by the insurer. The commissioner~~[executive director]~~ shall file proper notice of
16 such lien with the county clerk of the county in which any such property is located.

17 (2) Such real property shall not be withdrawn, sold, or further encumbered unless other
18 eligible assets of equal or greater value are deposited by the insurer in lieu thereof.
19 Upon any such withdrawal, sale, or encumbrance the commissioner~~[executive~~
20 ~~director]~~ shall execute a proper release of such property, which release shall be
21 recorded in the office of such county clerk.

22 (3) For the purpose of determining the amount of deposit, such real property shall be
23 valued at sixty percent (60%) of its fair value as determined by the
24 commissioner~~[executive director]~~.

25 ➔Section 1030. KRS 304.8-090 is amended to read as follows:

26 (1) The commissioner~~[executive director]~~ shall designate at least one (1) bank or trust
27 company in each county of this state containing a city of the first class or a

consolidated local government and such other banks as proposed by the insurer and approved by the commissioner~~[executive director]~~ which vaults shall be used as depositories for assets of insurers deposited under this code.

(2) Any expense associated with depositing assets under this chapter shall be borne by the insurer.

→ Section 1031. KRS 304.8-095 is amended to read as follows:

Notwithstanding any other provision of law, the commissioner~~[executive director]~~ may cause any or all deposits of assets of insurers required or permitted under this code and maintained in this state to be made and maintained in trust with depositories designated pursuant to KRS 304.8-090(1) under trust agreements to which depositories, insurers, and the commissioner~~[executive director]~~ are parties, for the purpose of this subtitle. These trust agreements shall provide with respect to deposits thereunder provisions, conditions and stipulations corresponding to those applicable to other deposits under this subtitle and shall require depositories to perform the same duties with respect to deposits thereunder as the commissioner~~[executive director]~~ is required to perform with respect to other deposits under the subtitle. Insurers who have made deposits under these trust agreements shall be relieved of all other obligations under this subtitle with respect to the assets deposited thereunder.

→ Section 1032. KRS 304.8-100 is amended to read as follows:

As to each insurer making or having a deposit the commissioner~~[executive director]~~ shall keep a complete record thereof showing:

- (1) The particular assets so deposited.
- (2) The face value, if any, of any asset, and the value thereof as determined by the commissioner~~[executive director]~~.
- (3) Date of deposit, and place thereof.
- (4) Assets withdrawn, date thereof, value of assets so withdrawn, and the name and address of any person to whom the assets were delivered.

1 (5) All other information as the commissioner~~[executive director]~~ deems necessary.

2 ➔Section 1033. KRS 304.8-110 is amended to read as follows:

3 (1) The commissioner~~[executive director]~~ may at any time inventory assets on deposit
4 as to any insurer. Upon request of the insurer the commissioner~~[executive director]~~
5 shall make an inventory at the insurer's expense, and shall furnish the insurer a copy
6 thereof. All inventories shall be made in the presence of the
7 commissioner~~[executive director]~~ and two (2) representatives of the insurer
8 designated for the purpose by its board of directors.

9 (2) Upon request, the commissioner~~[executive director]~~ shall give to any insurer
10 depositing assets a certificate thereof describing the assets and setting forth their par
11 value, if any, and their value, which valuation shall be determined by the
12 commissioner~~[executive director]~~.

13 ➔Section 1034. KRS 304.8-120 is amended to read as follows:

14 (1) All assets deposited shall be valued by the commissioner~~[executive director]~~ when
15 deposited, such valuation to be determined in accordance with the applicable
16 provisions of this code.

17 (2) If at any time the commissioner~~[executive director]~~ finds that the value of assets on
18 deposit by an insurer is less than the amount required for the purposes for which the
19 deposit was made, the commissioner~~[he]~~ shall by certified mail, return receipt
20 requested, addressed to the insurer at its home office, notify the insurer of such
21 deficiency and require that the deficiency be cured within thirty (30) days from the
22 date of such mailing. The commissioner~~[executive director]~~ may suspend or revoke
23 the certificate of authority of any insurer failing to cure any such deficiency within
24 such thirty (30) days.

25 ➔Section 1035. KRS 304.8-140 is amended to read as follows:

26 (1) While solvent and complying with this code an insurer shall be entitled:

27 (a) To collect and receive interest, dividends, and payments accruing upon assets